Worldwide Estate and Inheritance Tax Guide

2025

The better the question. The better the answer.
The better the world works.

Shape the future with confidence

Preface

The *Worldwide Estate and Inheritance Tax Guide 2025* (WEITG) is published by the EY Private Client Services network, which comprises professionals from EY member firms.

The 2025 edition summarizes the gift, estate and inheritance tax systems and describes wealth transfer planning considerations in 44 jurisdictions and territories. It is relevant to the owners of family businesses and private companies, managers of private capital enterprises, executives of multinational companies, and other entrepreneurial and internationally mobile high-net-worth individuals.

The content is based on information current as of February 2025, unless otherwise indicated in the text of the chapter.

Tax information

The chapters in the WEITG provide information on the taxation of the accumulation and transfer of wealth (e.g., by gift, trust, bequest or inheritance) in each jurisdiction, including sections on who is liable, domicile and residence, types of transfers, rates; payment dates and filing procedures, inheritance and gift taxes, sourcing of income, private purpose funds, exemptions and reliefs, gifts, pre-owned assets charges, valuations, trusts and foundations, settlements, succession, statutory and forced heirship, matrimonial regimes, testamentary documents and intestacy rules, and estate tax treaty partners. The "Inheritance and gift taxes at a glance" table on page 506 highlights inheritance and gift taxes in all 44 jurisdictions and territories.

For the reader's reference, the names and symbols of the currencies that are mentioned in the guide are listed at the end of the publication.

This guide should not be regarded as offering a complete explanation of the tax matters referred to and is subject to changes in the law and other applicable rules. Local publications of a more detailed nature are frequently available. Readers are advised to consult their local EY professionals for further information.

The WEITG is published alongside three companion guides on broad-based taxes: the *Worldwide Corporate Tax Guide*; the *Worldwide Personal Tax and Immigration Guide*; and the *Worldwide VAT, GST and Sales Tax Guide*.

Each guide represents thousands of hours of tax research. The entire suite is available without charge online, along with timely Global Tax Alerts and other insightful publications on ey.com or in our EY Global Tax Guides app for tablets.

Family enterprises

The EY Global Family Business Center of Excellence builds on more than 100 years of EY experience working with and helping family businesses succeed for generations. The Center provides the latest thinking on family business with the regular publication of exclusive reports and thought leadership, as well as surveys compiled in collaboration with other internationally renowned organizations in the family business arena. The EY organization is globally recognized as a trusted advisor to some of the world's largest family enterprises, including a large number of the world's top 500 family businesses (familybusinessindex.com). We designed the Center to bring together our market-leading advisors from across the global EY network to share knowledge and insights that will address family business challenges and provide a joined-up service for globally based family-led enterprises.

To access the Center and find your local contact, visit ey.com/familyenterprise.

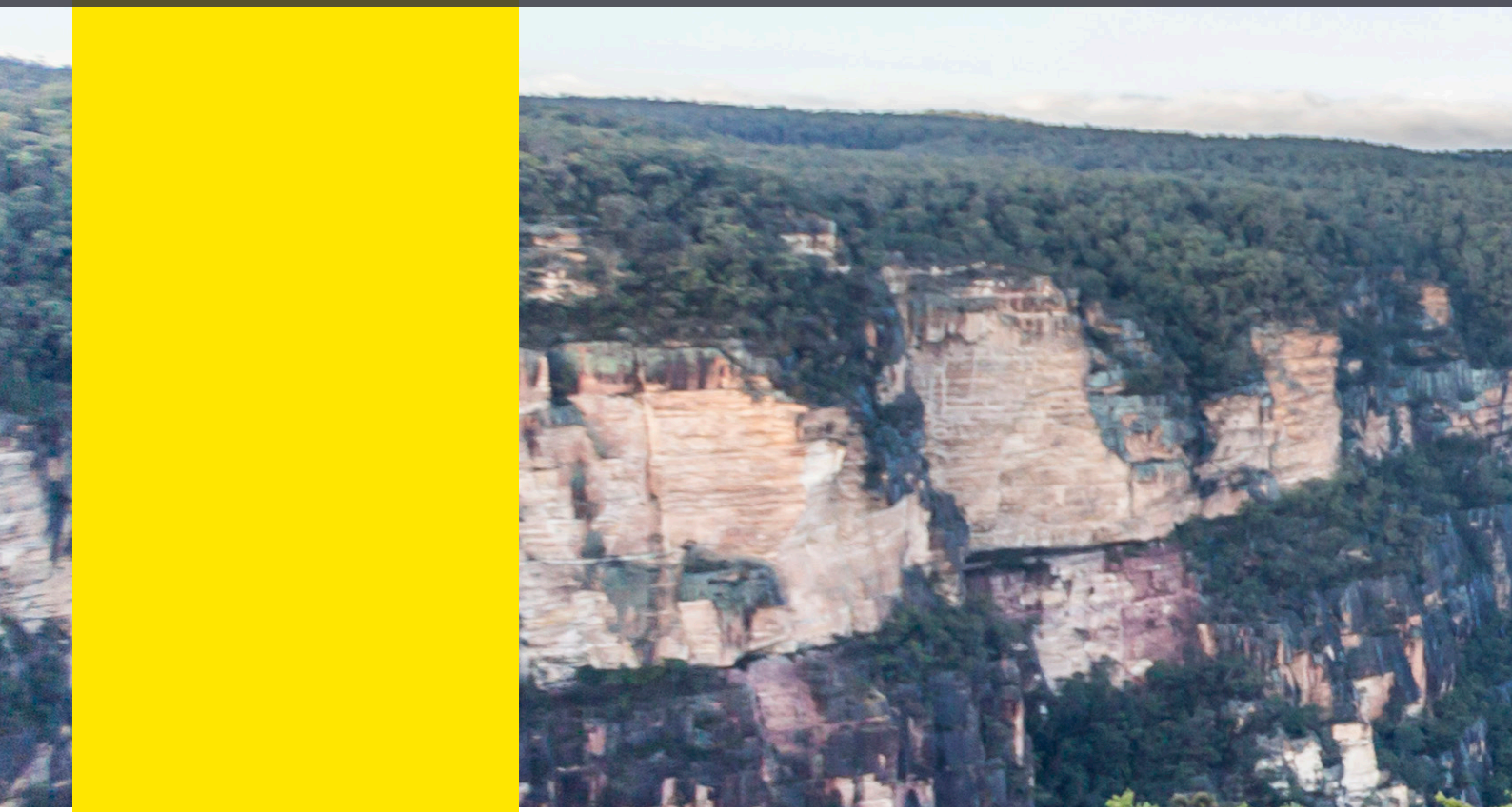
The EY Family Enterprise DNA Model supports both the personal and business performance agendas of family enterprise leaders and is based on success factors that facilitate family cohesion, business growth and long-term wealth preservation in a family enterprise.

Contents

Australia	6	Germany	162
Austria	14	Gibraltar	178
Belgium	22	Greece	186
Brazil	42	India	194
Bulgaria	52	Indonesia	202
Canada	62	Ireland	208
Chile	78	Italy	220
China Mainland	86	Japan	236
Cyprus	92	Luxembourg	248
Czech Republic	104	Malta	260
Denmark	112	Mexico	272
Finland	122	Monaco	288
France	134	Netherlands	294

New Zealand 306
Norway 318
Peru 326
Philippines 334
Poland 346
Portugal 356
Singapore 368
Slovenia 380
South Africa 388
South Korea 396
Spain 410
Sweden 424
Switzerland 432
Thailand 442
Türkiye 450
Ukraine 460
United Kingdom 472
United States 490
Inheritance and gift taxes at a glance 506
Foreign currencies 516
Contacts 518

Australia



EY contacts:

Adelaide

EY
121 King William Street
Adelaide, SA 5000

Craig Whiteman
craig.whiteman@au.ey.com
+ 61 8 8417 1770

Tracey Dunn
tracey.dunn@au.ey.com
+61 8 9217 1192

1. Types of tax

1.1 Inheritance tax

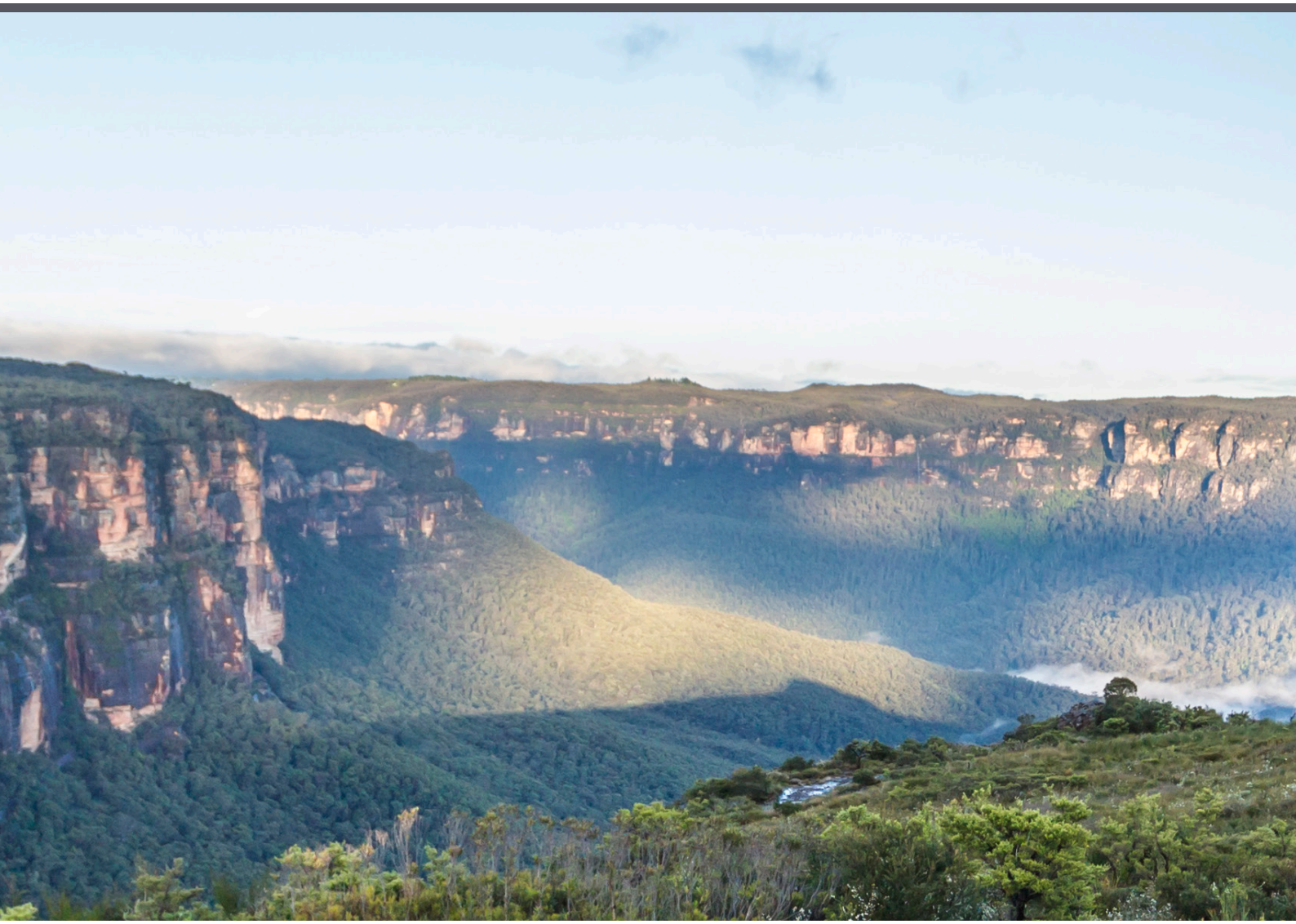
There is no inheritance tax in Australia.

1.2 Gift tax

There is no gift tax in Australia.

1.3 Real estate transfer tax

There is no real estate transfer tax in Australia.



1.4 Endowment tax

There is no endowment tax in Australia.

1.5 Transfer duty

In all states and territories, there is an exemption from stamp duty (or only nominal duty) regarding the vesting of dutiable property to the executor of a deceased person. This also applies to the transfer of assets to the beneficiary of a deceased estate.

1.6 Net wealth tax

There is no net wealth tax in Australia.

1.7 Others

In some circumstances, an immediate income tax liability can arise upon death, including:

- Asset transfers on death to a charity, superannuation fund or foreign resident may have a capital gains tax (CGT) liability.
- Immediate CGT liability can arise when a discretionary trust deed provides that the trust is to vest on a specific date or on the death of the specified individual (often the parents).
- When benefits in an Australian complying superannuation fund are paid to nondependents on death, a tax of 17% is payable on the taxable component.
- Earnings in a foreign superannuation or retirement fund that have accumulated since the member became an Australian resident may be taxable on payment to nominated beneficiaries.

2. Who is liable?

There is no inheritance tax in Australia, so this is not applicable.

3. Rates

Although Australia does not have an inheritance or gift tax, there are certain circumstances where tax can be paid by an individual as a result of death as described above. Listed below are income tax rates for the 2024-25 income year (1 July 2024 to 30 June 2025) for resident individuals.

Taxable income (AUD)	Tax payable thereon (AUD)
0-18,200	None
18,201-45,000	16% in excess of 18,200
45,001-135,000	4,288 plus 30% in excess of 45,000
135,001-190,000	31,288 plus 37% in excess of 135,000
More than 190,000	51,638 plus 45% in excess of 190,000

A Medicare levy of 2% of taxable income applies to residents.

Individual tax returns lodged under a tax agent lodgement program are generally due between 31 March and 15 May of the year following year-end (30 June each year) with tax payable broadly five weeks post-lodgement. Otherwise, lodgement is due by 31 October following year-end.

4. Exemptions and reliefs

There are no inheritance or gift taxes in Australia. There are also exemptions from income tax and capital gains tax.

5. Filing procedures

The executor of a deceased estate is responsible for filing the deceased's final year income tax return. During the administration of the estate, the executor must file income tax returns for the deceased estate.

6. Assessments and valuations

As Australia does not have an inheritance tax on death, this is not applicable.

7. Trusts, foundations and private purpose funds

In addition to assets held in an individual's own name, it is common for high-net-worth individuals (HNWI) in Australia to hold assets in discretionary trusts, a superannuation fund (particularly nearing and post-retirement) and in private ancillary funds (PAF).

7.1 Trusts

Discretionary trusts are generally established to hold property for the benefit of beneficiaries, with the trustee having the power and control to make decisions in relation to the trust property and on when and how much of the income and property of the trust is distributed to beneficiaries. Discretionary trusts are commonly used in Australia for HNWI to hold the family's wealth, particularly investment assets, as a discretionary trust structure can provide asset protection and flexibility to stream income and capital to different beneficiaries in different proportions at the trustee's discretion. However, assets held within a discretionary trust cannot be dealt with in an individual's will. Testamentary trusts are discussed at 10.1 below.

The major estate planning consideration for discretionary trusts is the ongoing control of the trust. This involves a consideration of whom the individual wishes to control the trust on his or her death (on the assumption that the individual controlled the trust pre-death) and during any period he or she is incapacitated. In the context of control, it is necessary to consider the appointor or guardian (and their successors) and the trustee (including the ownership thereof if a corporate entity). The Trust Deed will determine whether the role of the appointor or guardian is considered to be the "ultimate controller" of the trust.

In selecting the successor appointor and guardian, it is important to ensure that the chosen successor (and his or her controlled entities) is not precluded from being a beneficiary of the trust as a result of the successor position.

Where an HNWI has multiple discretionary trusts, consideration should be given as to whether a corporate appointor or guardian is appropriate, as this enables the successor appointor or guardian role to be handled efficiently and consistently.

Family members may have unpaid present entitlements, e.g., rights to draw on prior trust distributions where the cash has not been paid to the beneficiary from discretionary trusts. It is important to take unpaid present entitlements into account in the context of an individual's estate plan, particularly when treating family members equally and for asset protection.

It is necessary to review the vesting date of discretionary trusts during an estate planning review. Some deeds may provide for a specified period to be the vesting date or that the death of the specified individuals (often this will be the parents) results in the trust vesting. This effectively means that the trust ends and can result in the crystallization of any CGT liabilities on CGT assets held within the trust and transfer duty in respect of properties owned by the trust. The tax liability in respect of the crystallization of any CGT liabilities and transfer duty will either be paid at the trustee level or by the beneficiaries of the trust in the relevant year of income.

7.2 Superannuation funds

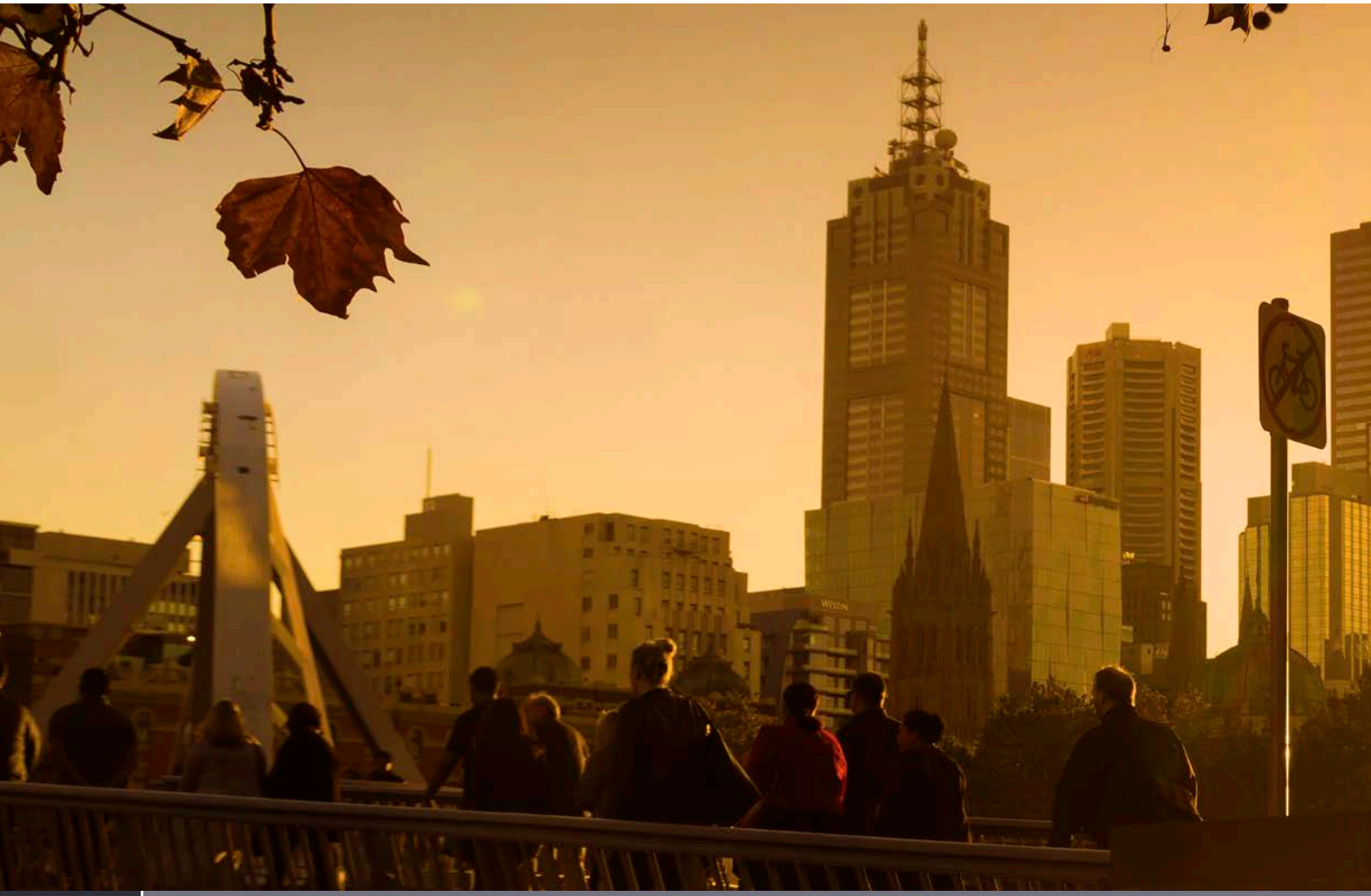
Superannuation funds are used in Australia to accumulate assets over time to fund the retirement of individuals. A complying superannuation has generous tax concessions.

Monies held within superannuation are primarily dealt with outside a person's will (although the will can assist in ensuring the benefit is taxed in the most efficient manner where the fund pays the death benefit to the estate of the individual). The estate planning issues for superannuation are dependent on whether the individual has set up a personal fund or has placed funds in a public fund. It is most common for HNWI to have a personal fund.

If a personal fund has been established with a corporate trustee, a key issue that requires addressing is the ongoing control of the corporate trustee of the fund to ensure that benefits paid on the death of the individual are distributed in the most tax-efficient manner with asset protection in mind. The use of "reversionary pensions" and "binding death benefit nominations" are also common means of ensuring the tax-efficient transfer of superannuation proceeds to desired beneficiaries.

7.3 Private ancillary funds

Private ancillary funds (a charitable trust established that is entitled to receive tax-deductible donations) continue after the death of the founder.



8. Grants

Regarding estate taxes, there are no specific rules regarding grants in Australia.

9. Life insurance

Life insurance payments are generally exempt from income tax when received by the nominated beneficiary.

10. Civil law on succession

10.1 Estate planning

Australia does not have an inheritance or gift tax. However, there are tax consequences that can arise at the time of death and estate planning measures should be undertaken.

Considerations and strategies relevant for individuals include:

- Should a discretionary testamentary trust be established? A testamentary trust, which is a type of trust established under an individual's will that only comes into existence on the death of the individual, can provide asset protection advantages and access to generous income tax concessions, including the CGT discount. Minors are not subject to punitive tax rates on income distributions received from testamentary trusts. In certain circumstances, family law protection and bankruptcy protection from creditors can be enhanced with the establishment of a testamentary trust. The use of a testamentary trust is a common strategy for funding the maintenance and education costs of minor children and grandchildren. The expected level of the individual's wealth on death will be a factor, as there are ongoing compliance costs with the maintenance of a testamentary trust.
- To what extent should an older individual transfer assets to intended beneficiaries prior to death? This often assists in the reduction of post-death family disputes. When an individual has unused capital losses, where capital gains are realized as the result of transfer of assets prior to death, the losses may be able to be utilized at that time, whereas the losses will not be available post-death (as capital losses that would otherwise be lost on death can be offset against realized capital gains on assets that have appreciated since acquisition and are transferred).
- There are various strategies regarding donations, including the timing thereof. For example, it can be more tax effective to make donations pre-death instead of post-death.
- Where the individual has a desire to ensure equity between family members, it is necessary to ensure that the will (and testamentary trust if established) provides for the split of assets between family members to be on a post-tax basis (i.e., after the CGT cost bases that the beneficiaries will inherit have been taken into account).
- It is also necessary to ensure that a family member's will does not undo asset protection strategies put in place during the individual's lifetime. For example, if the will of the spouse of an at-risk individual provides that on the death of the spouse the at-risk person will be the beneficiary of assets, then asset protection is lost. It is also important in the context of asset protection that potential inheritances and control of assets that cannot be dealt with in an individual's will are considered.

An estate planning review of an individual's personal assets and assets that cannot be dealt with in an individual's will (including regular review thereof and the taking of future actions cognizant of the estate plan) will ensure:

- Any tax implications arising from the transfer of assets to nominated beneficiaries are considered at this time.
- The incapacity of the individual is addressed at all stages, including who is given the responsibility to control the individual's entities upon the death of the individual.
- Asset protection implications for the individual and his or her beneficiaries are considered.

10.2 Succession

Statutory rules of intestacy are discussed below in Section 10.5.

10.3 Forced heirship

This is not applicable in Australia.

10.4 Matrimonial regimes and civil partnerships

This is not applicable in Australia.

10.5 Intestacy

If a person dies without making a will, his or her assets will be dealt with in accordance with the laws of intestacy in that state or territory. One of the relevant factors is whether the deceased has identifiable next of kin.

10.6 Probate or letters of administration

The basic procedures of administration and probate for deceased persons' estates are generally the same in each state or territory of Australia.

A grant can be either a grant of probate of a will or a grant of letters of administration when the individual dies without a will. In either case, the grant of probate or letters of administration is effectively the official recognition of the will (i.e., for a grant of probate) or appointment by a court of an administrator (i.e., for a grant of letters of administration) and the right of the executor or administrator to administer the estate. There is no statutory requirement that a grant be obtained in every case.

Generally, a grant is obtained in the jurisdiction or place in which the deceased left assets or where the deceased resides. If assets are held outside Australia, the grant obtained in Australia may be "recognized" or "resealed" in a foreign jurisdiction subject to the laws of that jurisdiction being able to recognize or reseal the grant. The resealing of the grant has the effect that the original grant obtained in Australia has been obtained in that foreign jurisdiction.

When a grant has been obtained, the executor or administrator obtains legal title to the assets of the deceased estate. After administration of the deceased estate is completed, the executor or administrator holds the assets on trust for the beneficiaries, subject to distribution to the beneficiaries.

11. Estate tax treaties

11.1 Unilateral rules

This is not applicable in Australia.

11.2 Double-taxation treaties

There is no gift or estate tax treaty currently in Australia. However, the US continues to recognize the gift and estate tax treaties previously entered into with Australia (please refer to the United States chapter of this guide).

Austria

EY contacts:

Salzburg

EY
Sterneckstrasse 33
Salzburg 5020
Austria

Johannes Volpini
johannes.volpini@at.ey.com
+43 662 2055 5242

Vienna

EY
Wagramer Strasse 19,
IZD Tower
Vienna 1220
Austria

Markus Schragl
markus.schragl@at.ey.com
+43 1 21170 1268

Stefan Kulischek
stefan.kulischek@at.ey.com
+43 1 21170 1305

1. Types of tax

1.1 Inheritance and gift tax

The Austrian Constitutional Court abolished the basic provisions of the inheritance tax on 31 July 2008. Since then, there is no inheritance and gift tax in Austria.

Gift Registration Act

Austria introduced the Gift Registration Act (*Schenkungsmeldegesetz*), applicable as of 1 August 2008. The Gift Registration Act introduced a new information system for gifts. In general, this information system is an instrument to monitor asset transfers without taxing those transfers.

General

The Gift Registration Act requires notification of certain transfers of assets arising from gifts, where one of the parties is a resident in Austria. The gift registration requirement (to file the appropriate electronic form) applies for securities, cash, shares in companies, businesses, and tangible and intangible assets transferred as of 1 August 2008.

1.2 Real estate transfer tax

A real estate transfer tax (RETT) is levied on real estate assets and the transfer of property to the successor. The non-paid transfer of real estate (by gift or heritage) is subject to a real estate transfer tax of 0.5% for the initial EUR250,000, 2% for the next EUR150,000 and 3.5% for all subsequent amounts of the calculated value of the real estate. Since 1 January 2016, the RETT on real estate transfers without consideration between close relatives is based on a calculated value of the real estate.

Two simplified methods for the assessment of the respective value are applicable. Both methods should deliver a tax base lower than the actual fair market value of the property. However, if the fair market value through expert opinion is lower than the value derived from the simplified methods, this lower value will be accepted.

Additionally, an in-tabulation fee (registration fee for the entry in the Austrian land register) of 1.1% of the fair market value (FMV) of the property applies. However, for real estate transfers between related parties, three times the assessed value or a maximum of 30% of the FMV is the basis of the fee.

1.3 Endowment tax

Austrian inheritance and gift taxes were abolished as of 1 August 2008. However, a new endowment tax was introduced, which can apply for donations to trusts and foundations.

1.4 Transfer duty

There is no transfer duty in Austria.

1.5 Net wealth tax

There is no net wealth tax in Austria.

2. Who is liable?

2.1 Residency and domicile

Individuals are considered ordinary residents in Austria if:
- They live in Austria for more than six months during the year (habitual place of abode)
  or
- They have a residence available in Austria

The Austrian authorities define residence as an "accommodation" that is available to the individual for actual use. The use of the accommodation does not need to be uninterrupted, as it is sufficient to use it for a number of weeks in a year.

As it is only necessary to meet one of the aforementioned requirements, it is possible under Austrian domestic law to be an Austrian resident by having a residence available for use without having Austria as the principal place of residence (i.e., by spending less than six months in Austria).

Furthermore, for Austrian residency purposes, a married couple is seen as one unit by the Austrian tax authorities; therefore, if one spouse is a resident in Austria, the other is also deemed a resident in Austria, regardless of the second spouse's movements or ownership of property. The proof of a different tax residency of the second spouse is very difficult and requires extensive documentation.

3. Rates

As Austria does not have an inheritance tax on death, this is not applicable.

4. Exemptions and reliefs

Certain transfers are exempt from notification:

- Transfers between close relatives up to an FMV of EUR50,000 per year are exempt. Relatives include, among others, spouses, children, parents, grandparents, sisters, brothers, cousins and also common-law partners. Where a person receives several gifts within a year, the aggregate value is used in determining whether the threshold has been exceeded. All gift transactions within that year have to be registered (by filing a form).
- For transfers between non-relatives, the threshold is EUR15,000 for transfers within five years.
- The exemption limit for everyday gifts is up to EUR1,000 per asset.

Inheritances do not need to be registered with the tax authority.

5. Filing procedures

Registration needs to be made electronically with the relevant tax authority within three months after the transfer. Both the donor and the donee are obliged to register, as well as lawyers and notaries if they have contributed to the transfer (i.e., by setting up the contract).

In cases where the registration is not made within three months, the tax authorities may impose a penalty of up to 10% of the net gift value, although a voluntary report is possible (only within one year as from the end of the registration period).

Non-paid transfers of real estate need not be reported to the tax authorities. This is due to the fact that such transfers will go in the land register.

6. Assessments and valuations

As Austria does not have an inheritance tax on death, this is not applicable.

7. Trust, foundations and private purpose funds

When inheritance and gift taxes were abolished, an endowment tax was introduced that applies for non-paid transfers and inheritances to trusts and foundations. The endowment tax can apply to the transfer of assets by an Austrian resident to a trust (regardless of whether the trust is a tax resident in Austria and the property being transferred is an Austrian property) and by a non-Austrian resident to an Austrian foundation. The applicable rates are either 2.5% (general rate) or 25% (increased rate).

Austrian foundations

In general, the rate of 2.5% applies for endowments to Austrian foundations (*Privatstiftungen*) regardless of who is contributing; for example, the founder or any third party (i.e., another person or legal entity).

However, the general tax rate of 2.5% is only granted on transfers if all required documents (deed of foundation – *Stiftungserklärung*) are filed with tax authorities no later than when the endowment tax becomes due. Otherwise, the increased rate of 25% applies. For the endowment of Austrian real estate, a real estate transfer tax of 0.5% for the initial EUR250,000, 2% for the next EUR150,000 and 3.5% for all subsequent amounts of the calculated value of the real estate applies. Additionally, there is an endowment tax (*Stiftungseingangssteueräquivalent*) of 2.5% of the same tax base. In addition, an in-tabulation fee of 1.1% of the FMV applies. The endowment of foreign real estate is no longer subject to Austrian endowment tax.

International trusts

Donations to nontransparent international trusts, foundations and comparable legal estates by Austrian residents might be subject to endowment tax at either the general rate of 2.5% or at the increased rate of 25%.

The general rate of 2.5% applies on endowments to international trusts and other legal estates, provided they are comparable to Austrian private foundations. The comparability test is crucial and mainly refers to certain characteristics of the Austrian private foundations regime. Otherwise, the increased rate of 25% applies. This is also true for non-paid transfers of assets to a trust that is established in countries with which Austria has no agreement on full legal and administrative cooperation. The increased rate is also applicable if the foreign trust has no obligation to report the beneficiaries to the foreign tax authorities or is not registered in a foreign public register (including the submission of the deed of foundation – *Stiftungsurkunde*).

An Austrian endowment tax does not arise on an endowment to a trust if the trust is transparent for Austrian tax purposes. If the trust is transparent, there is no transfer for tax purposes, as the assets continue to be attributable to the founder.

Whether a trust is transparent for Austrian tax purposes depends on a number of criteria.

8. Grants

Grants to individuals (e.g., for maintenance) can be subject to Austrian income tax. Specific tax exemptions can apply.

9. Life insurance

Income from life insurance is, under certain conditions, exempt from Austrian income tax.

10. Civil law on succession

10.1 Estate planning

Austria does not have an inheritance or gift tax. The transfer of real estate by inheritance or gift is subject to real estate transfer tax (see Section 1.2).

10.2 Succession

Details of the Austrian law of succession can be found in the following sections.

10.3 Forced heirship

In Austria, spouses and children have automatic inheritance rights regardless of the provisions in a will. A child, grandchild or spouse has the right to receive half of the share of the deceased person's estate that he or she would have received in the case of an intestate succession (see Section 10.5). These persons who are entitled to an obligatory share in the estate will have a monetary claim against the testamentary heirs, if such provision has not been made for them.

10.4 Matrimonial regimes and civil partnerships

A husband and wife may enter into a contractual succession pact. They may agree to leave up to three-quarters (75%) of their property in their spouse's favor. One-quarter (25%) of the property must remain freely disposable by the deceased person (free quarter). Once made, such a contract cannot be withdrawn by one spouse and must be notarized. Besides this, the spouse has the right of intestate inheritance if there is no will or an existing will is deemed invalid. If there is a valid will, as noted above, the spouse is entitled to an obligatory share in the estate (half of the intestate inheritance).

10.5 Intestacy

A will is a legal document that regulates an individual's estate after death. If it is handwritten, witnesses are not necessary, but in other cases three witnesses are needed to a written will. For oral wills, which are possible only in certain cases, there are special regulations concerning the witnesses.

A will can be revoked or replaced by a new one at any time.

The four lines of intestacy

If there is no valid will, the rules of intestate succession will apply. Subject to the caveat made below where there is a surviving spouse, Austria has the following intestacy rules for the remaining part of the estate:

1. First line: children and their descendants
   If the deceased person has children, they are entitled to inherit the entire estate. All children receive an equal share. Where children are still alive, the grandchildren do not inherit, but if a child has died before the deceased person, his or her children (grandchildren) inherit their share of the estate. This process continues until there are no more descendants.
2. Second line: parents and their descendants
   Parents and their descendants will inherit if the deceased person has neither children nor grandchildren. If both parents are still living, they receive equal shares. If only one parent is living, the descendants of the deceased parent inherit the share attributed to this parent. If both parents are deceased, their children or grandchildren (sisters, brothers, nieces and nephews of the deceased person) receive the inheritance of their parents.
3. Third line: grandparents and their descendants
   If the parents died without leaving any descendants, the grandparents and their descendants receive the inheritance. The deceased estate is divided equally among the father's parents and his descendants, and the mother's parents and her descendants. So, each grandparent receives one-quarter of the deceased person's estate. If the grandparents are deceased, their descendants inherit their part.
4. Fourth line: great-grandparents (without descendants)
   If there are no grandparents and no descendants of the grandparents, the great-grandparents are entitled to inherit.

Intestate succession of the spouse

The spouse is entitled to inherit one-third of the estate, and where there are surviving children or their descendants, the children inherit two-thirds. Where there are no children or their descendants, but parents, grandparents and their descendants survive, they receive one-third and the spouse is entitled to inherit two-thirds of the intestate succession. If there are no children, parents or grandparents with descendants, the spouse receives the entire inheritance. In the overall division of the estate, assets that the spouse received under any contractual succession pact will be taken into account.

No heirs

If there are no heirs at all, the Republic of Austria is entitled to inherit the estate of the deceased.

10.6 Probate

General inheritance tax law is applicable.

11. Estate tax treaties

Double-taxation issues

Potential double-taxation issues may arise in certain cases, such as:
- Non-paid transfer of assets by a non-Austrian founder (non-Austrian resident) to an Austrian private foundation
- Non-paid transfer of assets by an Austrian founder (Austrian resident) to an international trust
- Non-paid transfer of foreign assets (i.e., foreign real estate) to an Austrian private foundation or to an international trust by an Austrian founder

In any of those cases, double taxation may arise if the foreign state (i.e., the residence state of the founder) imposes tax on such transfer of assets (by donation or inheritance).

11.1 Unilateral rules

This is not applicable in Austria.

11.2 Double-taxation treaties

Austria has concluded estate tax treaties with the following countries listed below. However, potential double-taxation issues on endowment tax should be examined as part of endowment tax planning in each specific case.

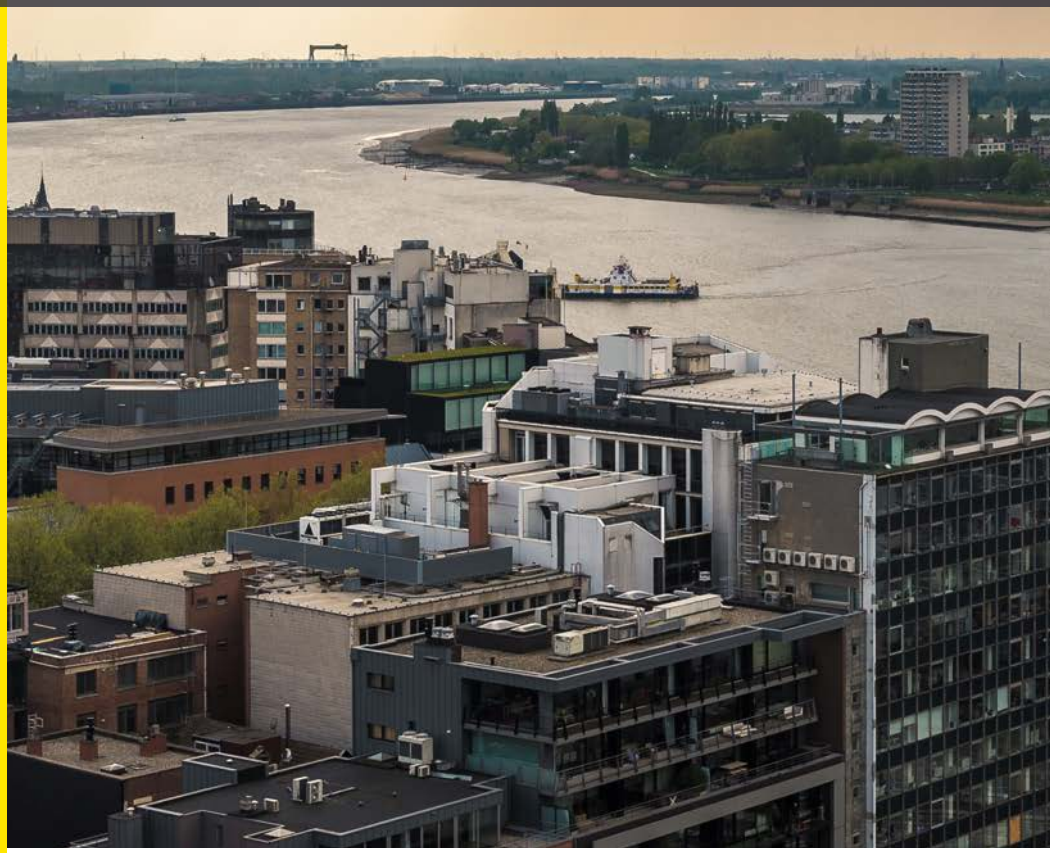
Inheritance tax treaties

Austria maintains inheritance tax treaties with the following countries: Czech Republic, France, Hungary, Liechtenstein, the Netherlands, Poland, Sweden, Switzerland and the United States.

Gift tax treaties

Austria maintains gift tax treaties with the following countries: Czech Republic, France, the Netherlands and the United States.

Belgium



EY contacts:

Brussels
EY Law
Kouterveldstraat 7B 002
Diegem 1831
Belgium

Emilie Maes
emilie.maes@be.ey.com
+32 478 96 59 03

Kim Verhaeghe
kim.verhaeghe@be.ey.com
+32 474 06 34 55

Alicia Coveliers
alicia.coveliers@be.ey.com
+32 475 22 83 55

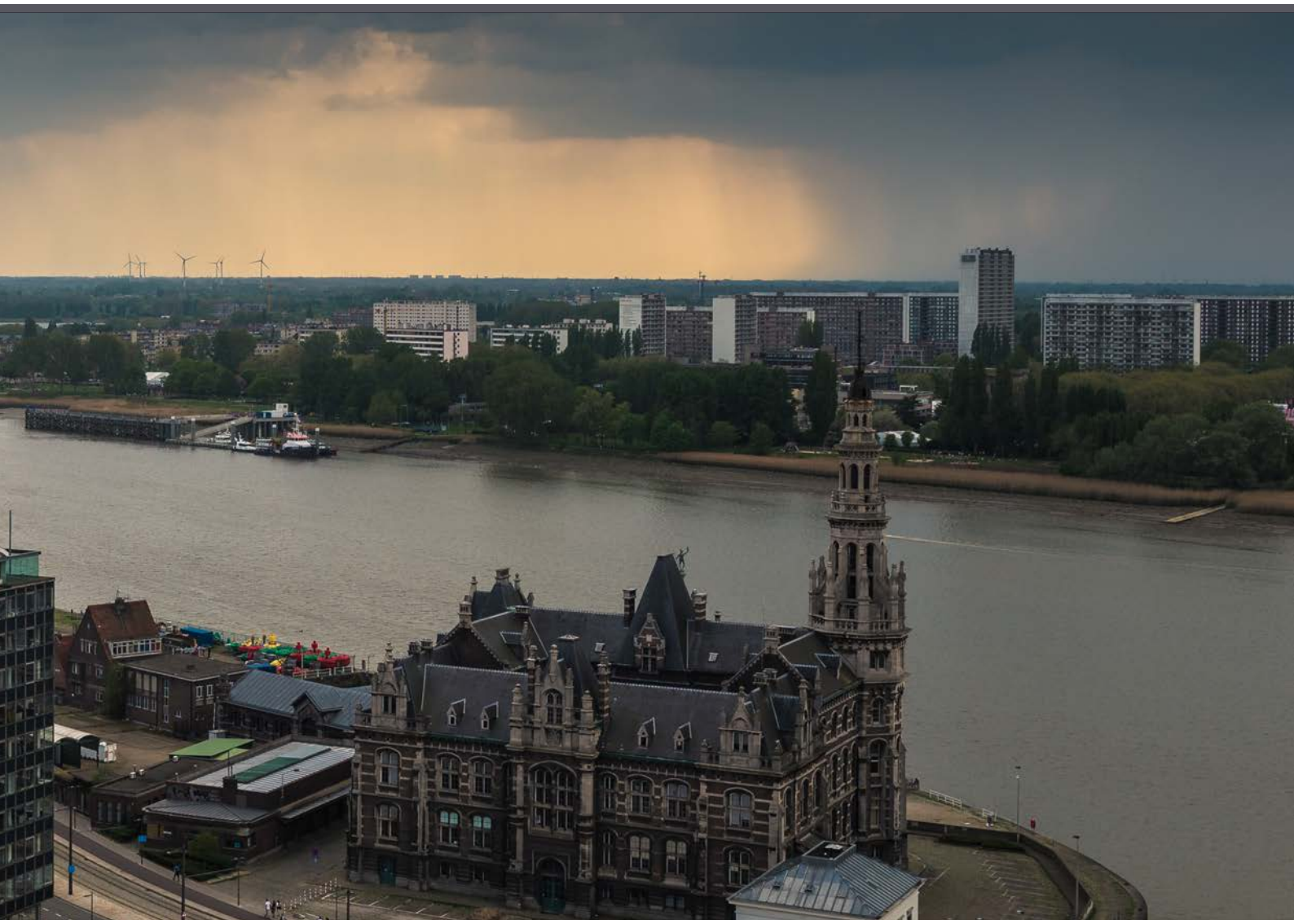
Jo Wolters
jo.wolters@be.ey.com
+32 499 22 25 12

1. Types of tax

Under Belgian law, the transfer of property for no consideration is subject to either inheritance tax or gift tax, depending mainly on whether the transfer takes place before or upon the gratifying party's death.

1.1 Inheritance tax

Belgian inheritance tax is levied on the transfer of property upon death. There are two types of inheritance taxes: succession tax and transfer tax.



Succession tax

Succession tax (*successierechten/erfbelasting* or *droits de succession*) is levied on the inherited (worldwide) estate upon a Belgian resident's death. Whether the deceased should be considered a Belgian resident is a factual matter that requires a case-by-case evaluation. The resident or nonresident status of the beneficiary is irrelevant to determine whether the inherited estate is subject to Belgian succession tax.

Transfer tax

Transfer tax (*recht van overgang bij overlijden* or *droits de mutation par décès*) is levied on the transfer of Belgian real estate upon a nonresident's death. Transfer tax only applies to Belgian immovable property. The resident or nonresident status of the beneficiary is irrelevant to determine whether the inherited Belgian immovable property is subject to Belgian transfer tax.

1.2 Gift tax

Gift tax (*schenkingsrecht/schenkbelasting* or *droits de donation*) is levied in the form of registration duties (*registratierecht* or *droits d'enregistrement*) on the value of property – movable or immovable – gifted during one's lifetime.

Gift tax is due when the gift is subject to registration in Belgium. Determining whether a gift is subject to registration in Belgium is thus key to determining whether gift tax is due.

Gifts of immovable property located in Belgium are subject to compulsory registration. The fact that the gift was made by way of a Belgian or a foreign (rare) notary deed has no impact on the obligation to register the gift. Registration is not compulsory for gifts of immovable property located abroad, even if the donor is a Belgian resident.

Gifting movable property by way of a (Belgian or foreign) notary deed is also subject to compulsory registration in Belgium. There is, however, no obligation to register manual gifts (*handgift* or *don manuel*) or gifts by bank transfer (*bankgift/don bancaire*).

It is important to note that gifts that have not been registered in Belgium and for which no gift tax was paid can become subject to (higher) inheritance taxes if the donor dies within a period of three years (Brussels region) or five years (Flemish and Walloon regions) of the gift and is a Belgian resident at the time of his or her death. These gifts can be presented for registration on a voluntary basis (and gift tax can be paid) to avoid this risk.

1.3 Real estate transfer duty

When Belgian real estate is transferred through gifting or upon death, no additional real estate transfer duty is levied in addition to the gift or inheritance tax due.

The transfer of Belgian real estate in return for payment, as well as the transfer of most of the real estate rights in return for payment, is, in principle, subject to a real estate transfer duty.

1.4 Endowment tax

There is no endowment tax in Belgium.

1.5 Net wealth tax

There is no general net wealth tax in Belgium. There is, however, since 26 February 2021, a yearly tax on securities accounts that applies to accounts that hold taxable securities for a(n) (average) value that exceeds EUR1 million. The tax is levied at a rate of 0.15%.

There is also a yearly tax on immovable property (irrespective of whether said property produces rental income).

2. Who is liable?

Succession tax

In principle, the beneficiary of the estate is liable for the payment of succession tax irrespective of his or her place of residence (in Belgium or not).

Succession tax is due on the deceased's worldwide estate if the person was a Belgian resident at the time of his or her death.

Under Belgian law, the deceased is considered a resident when the person had his or her effective place of residence in Belgium immediately prior to the person's death. The effective place of residence is the place where an individual has his or her permanent home (i.e., where the family lives) or his or her center of economic interests (i.e., place from where an individual manages bank accounts, investments, businesses and properties). A rebuttable presumption of residence applies for income taxes when the taxpayer is registered in the Belgian civil registry, but the regional inheritance tax codes do not provide for a similar presumption. The different tax authorities in charge of inheritance tax collection have, however, adopted the position that the deceased is presumed to be a resident of Belgium if he or she was registered in the civil registry at an address in Belgium at the time of death.

Transfer tax

Here too, the beneficiary of Belgian real estate is, in principle, liable for the payment of transfer tax irrespective of his or her place of residence (in Belgium or not).

Transfer tax is levied on the deceased's Belgian immovable property if he or she is considered a nonresident for tax purposes at the time of his or her death.

Gift tax

Gift tax is due, in principle, by the beneficiary of the gift. It is, however, accepted by the tax authorities that the donor pays the gift tax without triggering an additional gift.

Real estate transfer duty

Real estate transfer duty is, in principle, due by the purchaser.

3. Rates

Succession tax

The applicable tax rates vary depending on the region, the beneficiary and the taxable amount.

The rates mentioned below are currently applicable. Note that the Walloon Parliament adopted a new decree on 5 December 2024, introducing reduced succession tax rates in the Walloon region as of 1 January 2028.

Brussels capital region

For spouse, legal cohabitant or factual cohabitant (under certain conditions), and direct ascendant(s) or descendant(s) of the deceased		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-50,000	3%	0
50,000.01-100,000	8%	1,500
100,000.01-175,000	9%	5,500
175,000.01-250,000	18%	12,250
250,000.01-500,000	24%	25,750
500,000.01 and above	30%	85,750

For brothers and sisters of the deceased		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-12,500	20%	0
12,500.01-25,000	25%	2,500
25,000.01-50,000	30%	5,625
50,000.01-100,000	40%	13,125
100,000.01-175,000	55%	33,125
175,000.01-250,000	60%	74,375
250,000.01 and above	65%	119,375

For uncles, aunts, nieces and nephews of the deceased		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-50,000	35%	0
50,000.01-100,000	50%	17,500
100,000.01-175,000	60%	42,500
175,000.01 and above	70%	87,500

Any other persons		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-50,000	40%	0
50,000.01-75,000	55%	20,000
75,000.01-175,000	65%	33,750
175,000.01 and above	80%	98,750

Flemish region

For spouse, legal cohabitant or factual cohabitant (under certain conditions), and direct ascendant(s) or descendant(s) of the deceased		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-50,000	3%	0
50,000.01-250,000	9%	1,500
250,000.01 and above	27%	19,500

For brothers and sisters of the deceased		
Taxable amount (EUR)	Tax rate	Inheritance tax due on the previous tax bracket(s) (EUR)
0.01-35,000	25%	0
35,000.01-75,000	30%	8,750
75,000.01 and above	55%	20,750

Any other persons		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-35,000	25%	0
35,000.01-75,000	45%	8,750
75,000.01 and above	55%	26,750

Walloon region

For spouse, legal cohabitant, and direct ascendant(s) or descendant(s) of the deceased		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-12,500	3%	0
12,500.01-25,000	4%	375
25,000.01-50,000	5%	875
50,000.01-100,000	7%	2,125
100,000.01-150,000	10%	5,625
150,000.01-200,000	14%	10,625
200,000.01-250,000	18%	17,625
250,000.01-500,000	24%	26,625
500,000.01 and above	30%	86,625

For brothers and sisters of the deceased		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-12,500	20%	0
12,500.01-25,000	25%	2,500
25,000.01-75,000	35%	5,625
75,000.01-175,000	50%	23,125
175,000.01 and above	65%	73,125

For uncles, aunts, nieces and nephews of the deceased		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-12,500	25%	0
12,500.01-25,000	30%	3,125
25,000.01-75,000	40%	6,875
75,000.01-175,000	55%	26,875
175,000.01 and above	70%	81,875

Any other persons		
Taxable amount (EUR)	**Tax rate**	**Inheritance tax due on the previous tax bracket(s) (EUR)**
0.01-12,500	30%	0
12,500.01-25,000	35%	3,750
25,000.01-75,000	60%	8,125
75,000.01 and above	80%	38,125

Transfer tax

For each region, the transfer tax rates are the same as the succession tax rates listed above.

Gift tax

Gift tax rates vary, within the different regions of Belgium, depending on whether the gift pertains to movable or immovable property.

As mentioned above, gifts of movable property are subject to gift tax when the gift was made by virtue of a notarial deed or when the manual gift or the gift by bank transfer is voluntarily submitted for registration for tax purposes. Gifts of immovable property located in Belgium are necessarily subject to gift tax. Gifts of immovable property located outside of Belgium are only subject to a flat tax rate of EUR50 if the gift deed is voluntarily submitted to registration for tax purposes.

The rates mentioned below are currently applicable. Note that the Walloon Parliament adopted a new decree on 5 December 2024, introducing reduced gift tax rates on immovable property as of 1 January 2028.

Brussels capital region

Immovable property

Brussels gift tax rates for immovable property apply when the donor is a resident of the Brussels capital region (regardless of where the property is in Belgium) or when the donor is a nonresident and gifts immovable property located in the Brussels capital region.

To spouse, legal cohabitant or factual cohabitant (under certain conditions), and direct ascendant(s) or descendant(s) of the donor		
Taxable amount (EUR)	**Tax rate**	**Gift tax due on the previous tax bracket(s) (EUR)**
0.01-150,000	3%	0
150,001-250,000	9%	4,500
250,000.01-450,000	18%	13,500
450,000.01 and above	27%	49,500

To any other persons		
Taxable amount (EUR)	**Tax rate**	**Gift tax due on the previous tax bracket(s) (EUR)**
0.01-150,000	10%	0
150,001-250,000	20%	15,000
250,000.01-450,000	30%	35,000
450,000.01 and above	40%	95,000

Movable property

Upon registration of a gift of movable property, a fixed tax rate applies. This tax rate is 3% for gifts made to a spouse, a legal cohabitant, or a direct ascendant or descendant. Gifts made to all other people are subject to a fixed tax rate of 7%.

Flemish region

Immovable property

Flemish gift tax rates for immovable property apply when the donor is a resident of the Flemish region (regardless of where the property is in Belgium) or when the donor is a nonresident and gifts immovable property located in the Flemish region. The applicable gift tax rates are lowered in certain circumstances, for instance when ecological investments are made within a period of five years following the gift.

Real estate

To spouse, legal cohabitant or factual cohabitant (under certain conditions), and direct ascendant(s) or descendant(s) of the donor		
Taxable amount (EUR)	**Tax rate (normal/ecological investments)**	**Gift tax due on the previous tax bracket(s) (normal/ ecological investments) (EUR)**
0.01-150,000	3%/3%	0
150,000.01-250,000	9%/6%	4,500/4,500
250,000.01-450,000	18%/12%	13,500/10,500
450,000.01 and above	27%/18%	49,500/34,500

To any other persons		
Taxable amount (EUR)	**Tax rate (normal/ecological investments)**	**Gift tax due on the previous tax bracket(s) (normal/ ecological investments) (EUR)**
0.01-150,000	10%/9%	0
150,001-250,000	20%/17%	15,000/13,500
250,000.01-450,000	30%/24%	35,000/30,500
450,000.01 and above	40%/31%	95,000/78,500

Movable property

Gifting movable property is subject to a fixed tax rate. This tax rate is 3% for gifts made to a spouse, a cohabitant, or an ascendant or descendant. Gifts made to all other people are subject to a fixed tax rate of 7%.

Walloon region

Immovable property

Walloon gift tax rates for immovable property apply when the donor is a resident of the Walloon region (regardless of where the property is located in Belgium) or when the donor is a nonresident and gifts immovable property located in the Walloon region.

To spouse, legal cohabitant, and direct ascendant(s) or descendant(s) of the donor		
Taxable amount (EUR)	**Tax rate**	**Gift tax due on the previous tax bracket(s) (EUR)**
0.01-150,000	3%	0
150,000.01- 250,000	9%	4,500
250,000.01-450,000	18%	13,500
450,000.01 and above	27%	49,500

To any other persons		
Taxable amount (EUR)	**Tax rate**	**Gift tax due on the previous tax bracket(s) (EUR)**
0.01-150,000	10%	0
150,000.01-250,000	20%	15,000
250,000.01-450,000	30%	35,000
450,000.01 and above	40%	95,000

Movable property

Gifting movable property is subject to a fixed tax rate. This rate is 3.3% for gifts made to a spouse, a legal cohabitant, or a direct ascendant or descendant, and 5.5% for gifts made to any other person.

Real estate transfer duty

The transfer of Belgian real estate in return for payment, as well as the transfer of most of the real estate rights in return for payment, is, in principle, subject to a real estate transfer duty at a fixed rate of 12.5% in the Walloon and Brussels capital regions (as of 1 January 2025, 3% in the Walloon region for the single home) and 12% in the Flemish region (as of 1 January 2025, 2% for the single home).

Note that under specific conditions, a reduced rate of 1% in the Walloon and Brussels capital regions or 2.5% in the Flemish region can apply to the transfer of Belgian real estate rights between joint owners.

4. Exemptions and reliefs

Inheritance tax

Brussels capital region

For the Brussels capital region, the first EUR15,000 that a direct descendant or ascendant, a spouse, or a legal cohabitant or a factual cohabitant (under certain conditions) receives is exempted from inheritance tax. For the deceased's child, this exemption is increased by EUR2,500 for each full year remaining before the child reaches the age of 21. The surviving spouse with joint children who are younger than 21 is allowed an additional exemption, equal to half the exemption granted to the joint children who are younger than 21. In computing the taxable amount, these exemptions are applied to the first tax bracket, at the lowest tax rates.

For beneficiaries other than those mentioned above, a full exemption is granted if the net amount of the inheritance does not exceed EUR1,250.

The Brussels capital region also provides (1) a full exemption of the family home when it is inherited by the spouse or the legal cohabitant and (2) lower tax rates when it is inherited in direct line (ascendants and descendants) or by certain cohabitants other than the spouse or the legal cohabitant.

Since 1 January 2024, it has been possible to bequeath part of your inheritance by will to your "friend" at a rate of 3%. This rate reduction is applicable to the first EUR15,000 bracket.

Flemish region

In the Flemish region, the part of the estate that passes on in direct line is split into movable and immovable (real estate) goods, to be taxed separately. Several small general reliefs also exist depending on the relationship or the degree of kinship that exists between the deceased and the beneficiary.

The inheritance of the family home by a spouse or a cohabitant (under certain conditions) is tax exempt. The spouse and the cohabitant (under certain conditions) also enjoy an exemption on the first EUR50,000 in the movable goods that make up the estate. The child under the age of 21 who has been left orphaned enjoys a tax exemption on the inherited family home. The same child is granted a tax exemption on the first EUR75,000 of the movable goods in the estate.

The Flemish region also provides exemptions for immovable property situated for which a nature management plan (*natuurbeheersplan*) has been approved. The inheritance and gift tax rates applicable to charities have been reduced since 1 July 2021 to 0%. In addition, it is possible to bequeath part of an inheritance to a "friend" at a rate of 3%. This rate reduction is applicable to the first EUR15,000 bracket.

Walloon region

Several reliefs exist in the Walloon region, depending on the relationship or the degree of kinship between the deceased and the beneficiary and/or on the value of the transferred assets.

Among other reliefs, an exemption of the first EUR12,500 is granted on the part of the estate that is inherited by a direct descendant or ascendant, a spouse, or a legal cohabitant. This exemption increases by EUR12,500 when the net value of the beneficiary's share in the estate does not exceed EUR125,000. Furthermore, for the deceased's child, the exemption is increased by EUR2,500 for each full year remaining before the child reaches age 21. The surviving spouse with joint children who are younger than 21 is entitled to an additional exemption equal to half the exemption that is granted to the joint children who are younger than 21. In computing the taxable amount, these exemptions are applied to the first tax bracket, at the lowest tax rates.

For beneficiaries other than those mentioned above, a full exemption is granted when the net amount of the inheritance does not exceed EUR1,250.

The Walloon region also provides a full exemption of the family home when it is inherited by the spouse or the legal cohabitant and lower tax rates when it is inherited in direct line (ascendants and descendants).

Gift tax

All three regions provide for specific gift tax reliefs and exemptions. These are more anecdotal and shall not be examined further in this document, save for the exemption provided for the gifting of family-owned businesses or companies that shall be examined below.

Transfer of family businesses and companies

In supporting the transfer of shares of so called "family-owned businesses" to the next generation, a specific and favorable gift or inheritance tax regime can apply.

Instead of the standard rates that apply to gifts, or the inheritance of movable assets, the Walloon region and the Brussels-Capital region apply a 0% tax rate on the gift or the inheritance of the shares of a qualifying family-owned business.

In the Flemish region, a gift tax exemption applies on the gift of these shares. A reduced inheritance tax rate can apply in case of inheritance of these shares, depending on the family relationship: 3% for transfers in the direct line and between partners, and 7% for transfers to other beneficiaries.

The conditions to qualify as a family-owned business vary by region and should be met at the time of the gift or inheritance of the shares. In addition, certain conditions should be maintained for a specific period after the gift or inheritance and generally involve the family holds a minimum percentage of voting rights in the company, carrying out a genuine business activity, and maintaining the activity.

As the conditions that need to be fulfilled vary depending on the region, please see below an overview of this favorable regime for each region.

Flemish region

For the transfer of family-owned businesses upon death, the Flemish Tax Code provides a reduced inheritance tax rate of 3% (for the spouse, legal cohabitant or factual cohabitant under certain conditions, and direct ascendant(s) or descendant(s) of the deceased) or 7% (in all other cases) instead of the normal progressive inheritance tax rates of up to 27% (for the spouse, legal cohabitant or factual cohabitant under certain conditions, and direct ascendant(s) or descendant(s)) or 55% (in all other cases). Registration of a transfer of a family-owned business via a gift is tax exempt (0%).

For both of these preferential regimes, the following conditions apply:

- Donor/deceased's domicile: The owner/shareholder of the family business has been domiciled in the Flemish region for at least two and a half years during the five years preceding the death/gift.
- The family-owned company has its actual management within the European Economic Area (EEA) and exercises an industrial, commercial, craft or agricultural activity or a liberal profession.
- Participation condition: To qualify as family owned, the donor/deceased (and his or her family) must hold shares that represent at least 50% of the voting rights in the company. An exception to the participation condition is made for companies held by two or three families. In those cases, the donor/deceased (together with his or her family) needs to hold shares that represent 30% of the voting rights. This exception only applies if the shares that represent 70% of the voting rights (if two entrepreneurial families hold most of the shares) or 90% of the voting rights (if three entrepreneurial families hold the majority of the shares) are owned by the entrepreneurial families together.

- The Flemish government explicitly wanted to limit the application of this favorable regime to companies that provide an added value to the economy. Therefore, companies that are not engaged in a "genuine economic activity" are explicitly excluded from this regime. A company is deemed not to have a "genuine economic activity" if the annual accounts of the last three years reveal that:
  - The total amount of wages, social charges and pensions paid is lower than or equal to 1.5% of the total assets at least one of the companies.
  - The value of the buildings and land owned by the company exceeds 50% of the total assets of the company.

However, even if both criteria are met, the taxpayer can provide evidence to the contrary.

A passive holding company may qualify as a family-owned company with genuine economic activity if the company directly holds at least 30% of the voting shares of at least one active subsidiary that is situated within the EEA. In that case, the preferential regime only applies to the part of the shares' value that represent the participation in the active subsidiary/subsidiaries.

It is also possible to prove that the holding company itself performs a "genuine economic activity" (e.g., intragroup activities such as bookkeeping, information technology or intellectual property). In this case, the total value of the holding company will be considered, irrespective of the activities of the underlying companies.

To fully maintain the exemption, the following conditions should be met during a period of three years following the person's death or gift:
- The company must maintain a genuine economic activity. This condition does not exclude the potential sale of the business or company shares, as long as the genuine economic activity is continued by the third party/buyer.
- The company remains within the EEA.
- The business's or company's equity should be maintained.

Walloon region

The Walloon region provides for an inheritance tax exemption for family businesses (instead of the normal progressive rates of up to 30% (for the spouse, legal cohabitant, direct ascendant or descendant), 65%, 70% and 80% (in all other cases)). Gifting a family-owned business is also subject to an exemption.

Different rules apply from those applicable in the Flemish and Brussels capital regions.

For both preferential regimes, the following conditions apply:
- Donor/deceased's domicile: The owner/shareholder of the family business or family-owned company was domiciled in the Walloon region for at least two and a half years during the five years preceding his or her death/gift.
- Management condition: The family-owned company is managed within the EEA.
- Economic activity condition: The company or its subsidiaries carry out, on a principal basis, an industrial, commercial, agricultural, artisanal or forestry activity or a liberal profession, on a consolidated basis, for the company's ongoing financial year at the time of death/gift, as well as for the prior two financial years. A holding company may therefore qualify for the economic activity condition if it primarily carries out, with its subsidiaries, one of the aforementioned activities on a consolidated basis.
- Participation condition: The transfer pertains to company shares that represent at least 10% of voting rights at the company's general assembly. If the transferred shares represent less than 50% of voting rights at the general assembly, there is an additional requirement that a shareholder's agreement must be drawn up in which at least 50% of the voting rights are represented and which includes a commitment to ensure continuation of the company for a period of at least five years after the deceased's passing or the gift.
- Employment condition: The company has employees in the EEA on its payroll, regardless of the amount of salary paid. One employee is sufficient.

In order to fully maintain the exemption, the following conditions (among others) must be met during the five-year period that follows the deceased's passing or the gift:
- Economic activity condition: The company must continue to carry out one of the aforementioned activities.
- Employment condition: The number of employees should never drop below 75% of the number of employees at the time of death or when the gift was made.
- The business's equity or the company's capital should be maintained.

Brussels capital region

The Brussels capital region has adopted a regime similar to the one applicable in the Flemish region. In cases involving the transfer of family-owned businesses upon death, a reduced inheritance tax rate of 3% (for the spouse, legal cohabitant or factual cohabitant under certain conditions, and direct ascendant(s) or descendant(s)) or 7% (in all other cases) applies instead of the normal progressive inheritance tax rates of up to 30% (for the spouse, cohabitant, and direct ascendant(s) or descendant(s)) or 65%, 70% and 80% (in all other cases). The registration of a transfer of family-owned businesses via a gift is tax exempt.

For both preferential regimes, the following conditions apply:
- Donor/deceased's domicile: The owner/shareholder of the family business was domiciled in the Brussels capital region for at least two and a half years during the five years preceding his or her death/gift.
- Management condition: The family-owned company is managed within the EEA and exercises an industrial, commercial, artisanal or agricultural activity or a liberal profession.
- Participation condition: The donor/deceased (and his or her family) holds at least 50% of the company shares in full ownership. An exception to the participation condition is made for companies held by two or three families. In those cases, the donor/deceased (himself or herself, together with his or her family) needs to hold at least 30% of the shares in full ownership. This exception only applies if 70% of the shares (if two entrepreneurial families hold the majority of the shares) or 90% of the shares (if three entrepreneurial families hold most of the shares) are owned by the entrepreneurial families together.
- Genuine economic activity condition: The application of this favorable regime is limited to companies that are engaged in a "genuine economic activity." A company is deemed not to have a "genuine economic activity" if at least one of the annual accounts of the last three years reveals that:
  - The total amount spent on wages, social charges and pensions is lower than or equal to 1.5% of the company's total assets.
  - The value of the buildings and land owned by the company exceeds 50% of the company's total assets.

However, even if both criteria are met, the taxpayer can provide evidence to the contrary.

A passive holding company may qualify as a family-owned company with genuine economic activity if the company directly holds at least 30% of the shares of at least one active subsidiary located in the EEA. In that case, the preferential regime only applies to the part of the shares' value that represent the participation in the active subsidiary.

It is also possible to prove that the holding company itself performs a "genuine economic activity" (e.g., intragroup activities such as bookkeeping, information technology or intellectual property). In that case, the total value of the holding company will be taken into account, irrespective of the activities of the underlying companies.

In order to fully maintain the exemption, the following conditions (among others) must be met during the three-year period that follows the deceased's passing or the gift:
- The company must maintain a genuine economic activity.
- The company remains within the EEA.
- The business equity of the company's capital must be maintained.

5. Filing procedures

Income tax obligations

Income is subject to Belgian income tax on a calendar-year basis. The beneficiaries of the inheritance or the personal representative will be responsible for filing the deceased's income tax return:
- Income tax return for the income year prior to death: If an individual passes away between 1 January and the usual filing date for the preceding year (normally 30 June), an income tax return should be filed for him or her within five months of the person's death.
- Income tax return for year of death: This tax return is called an "income tax return special" and should be filed within five months of the death.

Inheritance tax

The filing procedures as described hereafter are applicable for all three regions.

In Belgium, the heirs or beneficiaries of the estate have to file an inheritance tax return.

The region to receive jurisdiction to levy taxes and thus where the tax return must be filed depends on the following:
- For a Belgian resident: The deceased's last place of residence. If he or she lived in different regions in the five-year period prior to the person's death, the region where he or she lived the longest receives jurisdiction to levy taxes.
- For a non-Belgian resident: The region in which the real estate is located.

The deadline for filing the inheritance tax return is four months after the decease if the death occurred in Belgium. The period is extended to five months if the death occurred in another European country and six months if the death occurred outside Europe.

Gift tax

Registration is only required for gifts made by virtue of a notarial deed. The registration of a notarial deed should be done within 15 days of the deed's signature. A non-notarized, indirect donation can also be voluntarily registered, in which case gift tax is also due.

6. Assessments and valuations

Gift tax — taxable base and progression method

Gift tax is levied on the fair market value (FMV) of the gifted assets. Specific valuation methods of the FMV are required for certain assets (shares listed on the stock exchange, usufruct or bare ownership of movable or immovable property).

In determining the tax rates applicable to a gift of immovable property, all gifts of immovable property from the same donor to the same beneficiary during the three years that precede the gift are considered and added to the taxable base.

Transfer tax — taxable base

For the Walloon region, transfer tax is calculated on the value of the deceased's Belgian immovable property after deduction of all debt specifically contracted by the deceased for his or her Belgian immovable property.

For the Brussels capital and Flemish regions, the same rule applies, as long as the deceased was a resident of the EEA. If not, transfer tax is due on the gross value of the deceased's Belgian immovable property.

The value that needs to be considered for this calculation is the FMV at the time of death.

Succession tax — taxable base

Succession tax is levied on the worldwide estate, which means that all taxable assets and deductible liabilities of the estate are included to determine the taxable base, irrespective of their geographical location. The taxable assets are valued at their fair market value or sale value (*verkoopwaarde* or *valeur vénale*) at the time of death. The deductible liabilities include the funeral expenses and all debts that are certain and fixed at the time of death and have not yet been paid by the deceased.

In the Flemish region, for ascendants or descendants in direct line, as well as for partners, succession tax is levied separately for each beneficiary on the taxable base composed of movable property and on the taxable base composed of immovable property. This distinction between movable and immovable property is not made in the Brussels or Walloon regions where succession tax due by heirs in direct line and partners is levied for each beneficiary on a global taxable base, which includes both the movable and immovable property inherited by each beneficiary.

For the category of brothers and sisters, succession tax is levied on the net value of the goods (movable and immovable) inherited by each beneficiary in all three regions.

Succession tax applicable between uncles and aunts, nieces and nephews or between people who are not related is levied on the entire portion inherited by this category of heirs if the deceased was a resident of the Flemish or the Brussels capital region at the time of his or her death. If the deceased was a resident of the Walloon region, succession tax is levied on the net value of the goods (movable and immovable) received by each beneficiary. The impact of this difference between the three regions is important given the fact that inheritance tax rates in Belgium are progressive.

Real estate tax — taxable base

The tax is, in principle, computed at the FMV of the real estate rights transferred. If the transfer is limited to the bare ownership and the owner retains the usufruct, the real estate transfer tax due will be computed at the FMV of the full ownership.

Note that other rules can apply when a transfer of Belgian real estate rights occurs between joint owners.

7. Trusts, foundations and private purpose funds

Belgian law does not know the concept of a trust. Foreign trusts are recognized in the Belgian first caps under strict conditions.

The Belgian tax implications of a distribution by a trust are uncertain. In different decisions, the Belgian tax authorities confirmed that they are of the opinion that inheritance tax is due — for discretionary trusts, at the time of distribution, or for fixed interest trusts, upon the settlor/Belgian resident's death.

Belgian law acknowledges the concept of a (private or public) foundation. Gifts and bequests made to certain kinds of (private or public) foundations are subject to favorable inheritance tax and gift tax regimes.

8. Grants

There are no specific estate tax rules in Belgium.

9. Life insurance

Distributions by an insurance company in execution of a life insurance policy held by the deceased are subject to inheritance tax if the deceased was a Belgian resident and if the payment is made to the beneficiary upon death, after the death, or within a period of three years (in the Brussels capital region) or five years (in the Flemish and the Walloon regions) prior to the death. Each region has its own rules. Sometimes the tax is due even when no payment is made.

Note, however, that some exemptions or reductions can apply among others for group insurance entered into by the deceased's employer if specific conditions are met.

10. Civil law on succession

10.1 Succession and forced heirship

Belgian civil law on succession

Certain heirs (the surviving spouse and the descendants) are automatically entitled to a statutory share of the estate, even if a will provides the contrary. This statutory share is called the reserved portion (*het voorbehouden erfdeel* or *la réserve héréditaire*).

The deceased's children enjoy a reserved portion in the estate of one-half. This means that the disposable share of the estate (the part of the estate that is not reserved for forced heirs) is also one-half. This disposable share allows the deceased a certain amount of freedom to endow third parties or one of his or her children.

Family situation at the time of death	Reserved portion of the children	Reserved portion of the ascendants	Disposable portion
No children	None	None	1/1
Children	1/2 in full ownership	None	1/2

The reserved portion of the surviving spouse is limited to the usufruct of half of the estate. However, the surviving spouse is entitled to at least the usufruct of the family home and the furniture it contains, even if the value of the family home and furniture exceeds the value of half of the estate. If the deceased gifted certain goods during his or her lifetime in bare ownership and withheld the usufruct, the surviving spouse is also automatically entitled to continue the deceased's right of usufruct during his or her own lifetime. For the surviving spouse to continue the deceased's usufruct, he or she must have already been married with the deceased at the time the gift was made, and the right of usufruct must still exist at the time of death. The surviving spouse can also choose to waive his or her right to continue the usufruct.

Family situation at the time of death	Reserved portion of the children	Reserved portion of the ascendants	Reserved portion of the spouse	Disposable portion
No children on either the father's or mother's side	None	None	1/2 usufruct	1/2 bare ownership and 1/2 full ownership
Children	1/2 in full ownership	None	1/2 usufruct	1/2 bare ownership

The deceased can disown the surviving spouse only if the spouses were separated. In such a case, specific conditions need to be fulfilled.

If one of the spouses has children from a previous relationship, the spouses may agree to disown each other or only one of them. In this case, specific conditions must also be met.

As for the surviving legal cohabitant, he or she is entitled to the usufruct of the family home and the furniture it contains or, in case of lease, he or she has a right to continue the lease agreement on the family home. However, the surviving legal cohabitant is not a forced heir of the estate, and the deceased may deprive him or her of those rights in a will.

Ascendants are not entitled to a reserved portion of the estate. Instead, they may be entitled to a maintenance obligation borne by the estate.

10.2 Matrimonial regimes

Marriage settlement

Upon death, the surviving spouse's situation will depend, among other things, on the matrimonial regime chosen by the couple. The main marital regimes available in Belgium are the legal regime of communal estate, the regime of universal communal estate and the regime of separation of property:

- The default regime laid down by law is the regime of legal communal estate (*gemeenschap van aanwinsten* or *communauté réduite aux acquêts*). The communal estate, in principle, includes all assets acquired during the marriage, save for those that were inherited by or gifted to a spouse during the marriage. Those assets, as well as all assets acquired before the marriage, remain, in principle, separately owned.
- In the regime of universal communal estate (*algehele gemeenschap van goederen* or *communauté universelle*), all assets are, in principle, owned in common by both spouses, regardless of whether they were acquired before or during the marriage.
- In the regime of separation of property (*scheiding van goederen* or *séparation de biens*), each spouse retains ownership over all assets he or she acquired before and during the marriage.
- A variant of the regime of separation of property is the regime of separation of property with an acquisitions settlement clause (*scheiding van goederen met verrekening van aanwinsten* or *séparation de biens avec clause de participation aux acquêts*). The spouses are married under the regime of separation of property and a clause in their marriage contract provides that in case of dissolution of the marriage, the spouses' income (mainly their professional income) shall be settled between them following a predetermined allocation key.

The regimes of universal communal estate and separation of property can only be chosen by the spouses in the form of a marriage contract. If the future spouses opt for the latter option, the notary has the obligation to inform them of the advantages and disadvantages of the regime of separation of property as well as on other solidarity-based solutions that exist.

The regime of legal communal estate is automatically applicable in all cases where the spouses have not concluded a marriage contract insofar as Belgian law is applicable to their matrimonial settlement. The spouses are also free to choose this regime in a marriage contract, in which case they may also add exceptions or other clauses to the legal regime.

An example is a clause whereby the spouses agree on the way the communal estate will be divided between themselves in case of separation. They may also define the rights of the surviving spouse in the communal estate in the event of the other spouse's death. An attribution clause needs to be tailor made to fully reflect the wishes and desires of the spouses. These types of clauses can be inserted in a marriage contract for "regular" or for universal communal estate.

When the surviving spouse receives the whole communal estate (or more than half) in accordance with the couple's marriage contract, such a transfer is, in principle, not considered under civil law as a gift nor a bequest from the deceased to the surviving spouse. Therefore, this gift is within certain limits not considered when determining the shared descendant's reserved portion. From a tax point of view, however, such a transfer of more than half of the communal estate to the surviving spouse is subject to inheritance tax.

10.3 Intestacy

A will is a written unilateral legal document that regulates the attribution of the different elements of an individual's estate after his or her death. It is possible to include in one's will a choice of applicable inheritance law, provided it is that of the testator's last habitual residence or nationality. Note that there is some uncertainty concerning the consequences of the Belgian reserved portion (see section 10.1) if one has opted for a foreign law whereby the Belgian reserved portion is not respected. However, most of the doctrine agrees that the Belgian reserved portion can be disabled.

Belgian civil law recognizes three different forms of will:

- A holographic will (handwritten)
- An authentic will (before a notary public)
- An international will (before a notary public)

Each type of will has its own legal form, wording, advantages and disadvantages.

If there is no valid will at the time of death, the deceased's estate devolves according to predetermined rules known as the intestate succession. The intestate succession should not be confused with the forced heirship rules; the intestate succession governs the division and the settlement of the estate between legal heirs in the absence of a will, while the forced heirship rules aim to protect specific legal heirs (see above). In other words, not all legal heirs are forced heirs.

The intestate succession is governed by a system that divides the possible intestate heirs into different orders depending on how they relate to the deceased. The closest applicable order excludes the more distant orders.

First order	Children and other descendants
Second order	Parents together with (half) brothers and (half) sisters and their descendants
Third order	Ascendants (parents, grandparents, great-grandparents)
Fourth order	All other collateral heirs (uncles, aunts and their descendants, up to the fourth degree)

Within the same order, the heir closest in rank excludes those that are further (for example, the children exclude the grandchildren). However, the Belgian Civil Code contains several exceptions to this rule.

Please note that if the deceased does not have any relatives of the aforementioned orders and has not left a will, his or her estate is declared vacant and will be awarded to the Belgian state.

In Belgium, the surviving spouse is a legally recognized heir, notwithstanding the fact that the surviving spouse is not included in one of the above orders; special rules govern his or her position.

The succession rights of the surviving spouse will depend on the deceased's other heirs.

	The surviving spouse receives	The other heirs receive
If there are descendants	Usufruct of the whole estate	Bare ownership of the whole estate
If there are heirs from the second or third order	Usufruct of the deceased's individual estate and the full ownership of the communal estate and/or all the goods that are held in joint ownership between the spouses	Bare ownership of the deceased's individual estate
If there are only heirs from the fourth order or if there are no heirs	Full ownership of the whole estate	

As for the legal cohabitant, he or she is entitled to the usufruct over the family home and the furniture it contains.

10.4 Estate planning

Belgium has several estate planning opportunities.

Gifts

In the country's three regions, it is possible to gift certain types of movable property without any gift tax by making manual gifts, gifts by bank transfer or informal gifts (only advisable if the full ownership is gifted, not in cases where the gift is limited to the bare ownership or the usufruct or when one wishes to add certain modalities, such as a *fideïcommis de residuo*).

An important disadvantage of these gifts is that the transferred ownership will be subject to succession tax if (1) the donor dies within the five-year period (three-year period in the Brussels capital region) following the date of the gift and (2) the gift was not registered in Belgium for tax purposes (see above).

It is, however, often possible to insure this risk (e.g., through a sudden death protection) and/or limit this risk by means of a specific "in extremis" backup plan that allows for these gifts to be registered in time, should the donor die within the five-year period (three-year period in the Brussels-Capital region) that follows the gift.

Note that it is possible to make a gift subject to different conditions and burdens, it being understood that the gift should remain a true gift with the intention to donate (*animus donandi*).

The partnership

The partnership agreement is a planning instrument that is frequently used by parents who wish to transfer movable property to the next generation while maintaining certain control over the transferred assets.

A partnership agreement is entered into by the pater and/or mater familias and their children with whom they will pool goods and/or cash that they want to transfer. A partnership can easily be used to transfer company shares as well as portfolios. In exchange for pooling assets, each party receives shares in the partnership in principle proportionate to the value of their contributions.

Control over the transferred assets by the pater and/or mater familias is ensured by his and/or her appointment as manager(s) of the partnership in the articles of association. Given the fact that unanimity is required to make any changes to the articles of association, it will not be possible to discharge the pater and/or mater familias without his and/or her consent.

Bare ownership of the partnership shares can be gifted by the parents to the children by way of a notary deed. The parents can withhold the usufruct.

Gifting shares of a partnership is in principle only possible by notarial deed and consequently gift tax will be due (see section 1.2).

The consequences of succession planning by means of a partnership are as follows:
- The pater and/or mater familias retain the income generated by the gifted assets.
- In the event of sale of any of the pooled assets, the value of the sale can be reinvested in other assets, which will still be subject to the partnership regime in case a substitution clause was provided for.
- The pater and/or mater familias are in charge of managing the assets.

Once the partnership is established, it must be registered in the Crossroads Bank for Enterprises (CBE).

The anti-money laundering law requires all "ultimate beneficial owners" of a company — and thus also of a partnership — to register in the UBO (ultimate beneficial owners) register. In principle, this obligation applies to anyone who owns more than 25% of the shares or voting rights in the partnership or who otherwise exercises control over that partnership.

The partnership must keep accounts and prepare annual financial statements. However, these financial statements do not have to be deposited and are therefore not published.

11. Estate tax treaties

Belgium has entered into a treaty regarding succession tax with France and Sweden. Negotiations have started with the United States regarding an estate tax treaty.

Belgium has not entered into any international agreements regarding gift tax.

12. Abuse of tax law

The Belgian Registration Tax and Inheritance Tax Codes each contain a provision concerning abuse of tax law. When transactions or transfers of property are considered to fall under this provision, these will not be enforceable upon the tax authorities.

The Belgian tax authorities have published an administrative circular to help interpret these provisions. The circular lists examples of transactions and indicates whether these constitute abuse of tax law.

Non-exhaustive lists

The assessment of the existence of abuse of tax law must be done on a case-by-case basis. As a result, it is not possible for the tax authorities to provide an exhaustive list of safe, non-suspicious transactions.

However, the administrative circular lists some transactions that, in principle, do or do not constitute abuse of tax law according to the tax authorities.

Abuse of tax law

The following transactions are, among others, considered abuse of tax law by the tax authorities (unless the taxpayer is able to prove the existence of nontax-related motives):

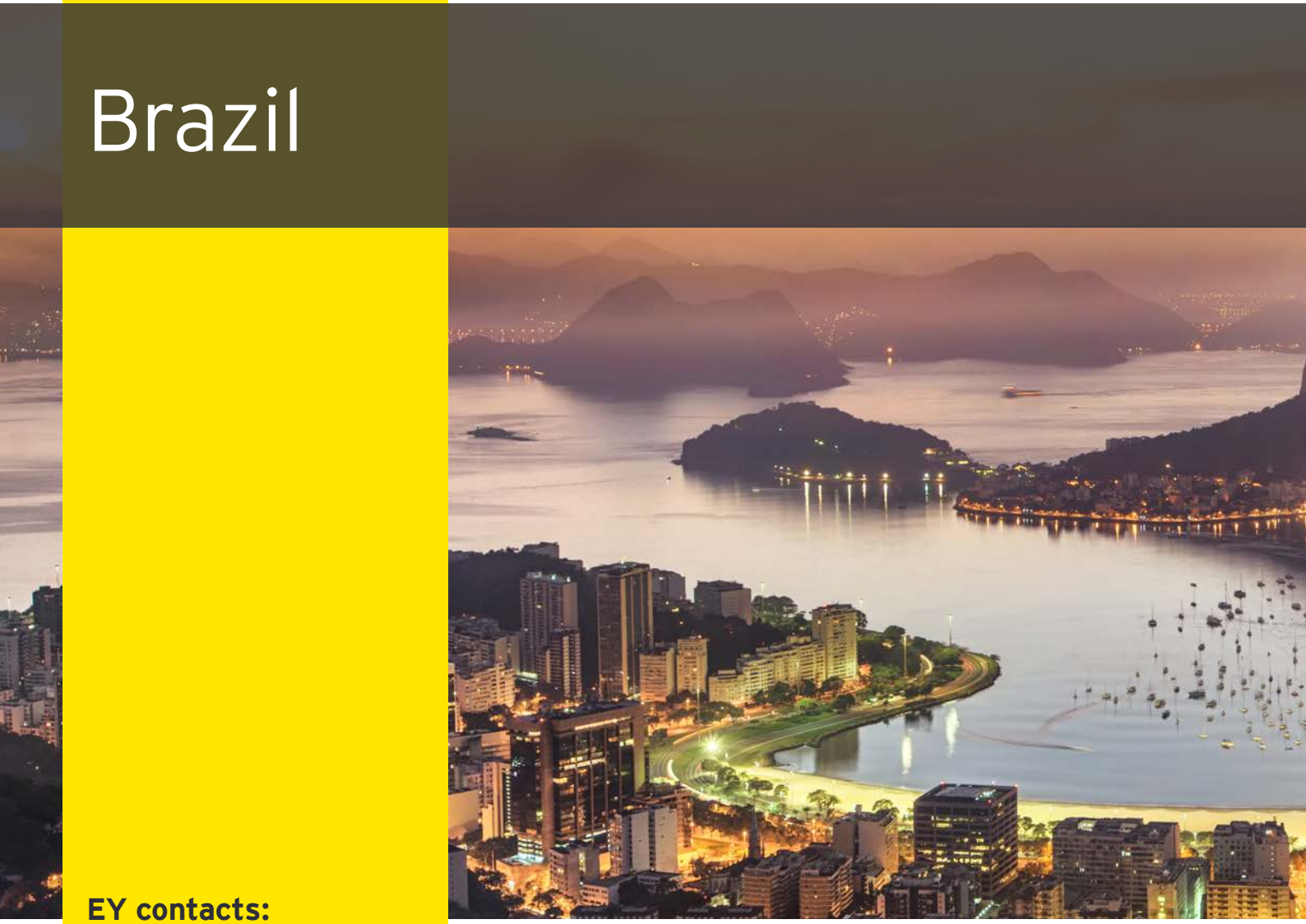
- The introduction of an asset in the communal estate by one spouse followed, immediately or within a short period of time, by the gifting of this asset by both spouses
- Long-term building lease, also called emphyteusis, between affiliated companies

No abuse of tax law

The following transactions are, among others, not considered abuse of tax law (unless they are part of a broader and abusive tax-saving scheme):

- Manual gifts/gifts made by a bank transfer
- Successive partial gifts of immovable property
- Gifts with withheld usufruct or any other lifetime right

Brazil



EY contacts:

São Paulo

EY
São Paulo Corporate Towers
Avenida Presidente Juscelino Kubitschek, Floors 6-9
1909
Torre Norte – Floors 6-10
Itaim Bibi
São Paulo
04543-011
Brazil

Jose Massari
jose.massari@br.ey.com
+55 11 2573 6460

Silvia Kozlowski
silvia.kozlowski@br.ey.com
+55 11 2573 6323

1. Types of tax

From a domestic perspective, taxation on donation and inheritance is regulated at the state level. Rates might vary depending on the location where the donor, donee or asset is domiciled and/or the transaction is concluded.

Generally, the conflict-of-law principle should regulate transactions involving estate rights, but Brazilian courts could keep exclusive jurisdiction to conduct the estate proceedings and to distribute the deceased's assets located in Brazil.

1.1 Inheritance tax

State tax on causa mortis wealth transfer and donation (ITCMD)

ITCMD is a state tax charged on transfers of assets in death-related inventories or gifts (in the case of living individuals), payable on movable and immovable property (for example, real estate or lump sums of money). The collection of ITCMD is made at the domicile of the deceased person. However, ITCMD should be applicable to surviving family members who reside in Brazil or to the beneficiary (the state law regulating the taxation of ITCMD may also indicate the donor as jointly responsible for the payment of ITCMD in case of default by the beneficiary). Brazil underwent a tax reform (*Emenda Constitucional 132/23*) at the end of 2023 that established some changes in relation to ITCMD collection.

Although the reform is already in effect, certain provisions still depend on the enactment of state and supplementary legislation to become applicable. Others, however, became immediately enforceable upon its enactment, such as the rule that ITCMD is now collected in the state of the deceased's domicile, rather than in the state where the estate is being processed, as was previously the case. The reform also established the immediate taxation of foreign donations received by Brazilian residents from donors residing abroad or by recipients abroad when the donor is a Brazilian tax resident. Additionally, in cases of succession involving assets located abroad, ITCMD must now be collected in the state of the deceased's domicile in Brazil or, if the deceased was domiciled abroad, in the state where the heir resides.

The new legal text introduced progressivity and expanded the taxation base of inheritances, linking the charge to the value of the inheritance or donation. Thus, states like Sao Paulo that did not yet foresee progressivity of rates should include the new determination in their legislative texts. Currently, the state maintains a fixed and uniform tax rate of 4%, which is lower than what other states charge (for instance, Rio de Janeiro applies a progressive rate that can reach up to 8%).

In São Paulo, a bill has been under consideration since 2024, aiming to introduce a progressive tax structure. While it has not yet been approved, there is growing anticipation that it will be enacted soon. As a result, there is a movement within the state toward estate planning strategies to take advantage of the existing 4% flat rate.

However, it is important to note that the current 8% limit of the applicable rate is not affected, because the states still depend on complementary law for regulation.

It was also established that ITCMD would not apply on donations made to nonprofit organizations of public and social relevance, including assistance organizations linked to religious entities and scientific and technological institutes.

Previously ITCMD was charged in the state where the inventory or listing of assets took place. Now, the tax will be collected at the domicile of the deceased or of the donor of movable property, titles or credits. This change applies to succession processes opened after the enactment of the reform.

Tax assessment

The procedures, deadlines and rates vary among the Brazilian states. For a general overview, we have listed below information about São Paulo and Rio de Janeiro.

In São Paulo, ITCMD should be levied on:

- Causa mortis transfers: Tax should be paid within 30 days after the decision that ratifies the calculation or after the order that determines its payment. The deadline for payment of the tax shall not exceed 180 days from the start of the succession process.
- Gift transfers: Tax should be collected before the conclusion of the act or contract. In case of sharing or division of common property, the tax must be paid within 15 days of decision res judicata or prior to the issuance of the notary registration. Gifts up to BRL92,550.00 (for 2025) per donee and per calendar year are considered tax-exempt. Such amount is updated yearly.
- The ITCMD rate is currently 4% in São Paulo. (The state has not yet updated its rate value, as the new federal legislation establishes, because the rate will depend on approval of a complementary law in the Legislative Assembly of the State of São Paulo. If passed, the bill will be converted into state law and the progressivity of rates will be implemented.)

In Rio de Janeiro, ITCMD should be levied on:
- Causa mortis/gift transfers: Tax should be paid within 60 days after the taxpayer was made aware of the tax posting, or in four equal and successive monthly installments, without extra charge (the latter option expires the first 30 days after the taxpayer was made aware of the posting).
- Tax computed by a tax notice: 30 days from the notification.
- Regarding property donations and related rights, even if the donation instrument is drawn up in another state, the ITCMD must be paid prior to the taxable event within the legal term.
- Gifts up to BRL53,446.50 (for 2025) per donee and per calendar year are tax-exempt.

The ITCMD rate in Rio de Janeiro is measured progressively, as below (for 2025):
a) 4%, for amounts up to BRL332,556.00
b) 4.5%, for amounts above BRL332,556.01 and up to BRL475,080.00
c) 5%, for amounts above BRL475,080.01 and up to BRL950,160.00
d) 6%, for amounts above BRL950,160.01 and up to BRL1,425,240.00
e) 7%, for amounts above BRL1,425,240.01 and up to BRL1,900,320.00
f) 8%, for amounts above BRL1,900,320.01

Determination of the tax basis

The tax legislation of the 27 federal states (including the Federal District) contains specific provisions on the valuation of assets transferred, as well as on the applicable tax rates. Reference needs to be made to the local state rules in any case.

1.2 Gift tax

See Section 1.1.

1.3 Real estate transfer tax

Municipal tax on real estate transfer (ITBI)

While alive, owners may transfer Brazilian property to anyone, through a donation (in this case, they must observe the mandatory portion of 50% of their assets that are destined to their forced heirs) or through a pecuniary interest. When the transfer occurs through a donation, it is subject to ITCMD (see Section 1.1). When the transfer occurs through a pecuniary interest (purchase or sale), the transfer of real estate between people or land is subject to the "*Imposto de Transmissão de Bens Imóveis por Ato Oneroso Inter Vivos*" (ITBI), which is a municipal tax levied on transfers of real estate and rights to real estate. The rates that should apply on such taxation vary from city to city in Brazil, and the ITBI should be calculated based on the assessed value. However, the rates must respect the principle of non-confiscation, stipulating non-abusive rates. The rate in Rio de Janeiro is 3% of the real estate value; in São Paulo, the maximum tax rate is 3% of the real estate value.

Tax assessment

The procedures, deadlines and rates vary among the Brazilian cities. For a general overview, we have listed below information about São Paulo and Rio de Janeiro.

In São Paulo, ITBI should be levied:
- Before the conclusion of the act or contract, if it is a public instrument
- Within 10 days if the act or contract is made effective by a private instrument, or, in the transmission made by a court decision, as of the *res judicata* of this decision, or as of the date that the calculation is ratified, whichever happens first
- Within 15 days in case of auction, adjudication and award redemption, before the signing of the respective letter, even if it is not extracted

In Rio de Janeiro, ITBI should be levied:
- Before the conclusion of the act or contract, if it is a public or private instrument
- Within 60 days in case of incorporation of real estate in a legal entity
- Within 30 days in case of judicial acts, counted from the date the taxpayer was made aware

Determination of the tax basis

The tax legislation of all municipalities (including the Federal District) contains specific provisions on the valuation of assets transferred, as well as on the applicable tax rates. Reference needs to be made to the local municipal rules in any case.

1.4 Endowment tax

There is no endowment tax in Brazil.

1.5 Transfer duty

There is no transfer duty in Brazil.

1.6 Net wealth tax

There is no net wealth tax in Brazil.

2. Who is liable?

2.1 Residency

For ITCMD and ITBI, see Sections 1.1 and 1.3.

2.2 Domicile

For ITCMD and ITBI, see Sections 1.1 and 1.3.

3. Rates

The rates of ITCMD and ITBI vary depending on each of the 27 states and cities.

4. Exemptions and reliefs

State and municipal legislation should be observed regarding the possibility of tax exemption from ITCMD and ITBI. In some cases, there may be no tax incidence (ITCMD), depending on the value of the property to be transferred or even the conditions under which the will is transmitted and who the beneficiary is.

5. Filing procedures

The filing procedures for ITCMD and ITBI vary among each of the 27 states and cities.

6. Assessments and valuations

Assessments and valuations for ITCMD and ITBI purposes vary depending on each of the 27 states and cities.

7. Trusts, foundations and private purpose funds

A trust is an arrangement whereby the ownership of private assets and rights (money, liquid assets, real estate properties and moveable rights) is transferred from an original owner (settlor) to a third party (trustee) who takes on the full responsibility to manage those assets in the exclusive best interest of individuals (beneficiaries or cestui que trust) expressly indicated by the settlor or trustee in the trust deed. The wealth given in trust is protected by mandatory fiduciary obligations (management and loyalty) to be performed by the trustee. Moreover, it does not include the trustee's personal wealth, and therefore, is not subject to the trustee's private judicial demands in the case of insolvency.

It is important to note that although trusts are widely used in common law jurisdictions, the concept of trust was not regulated in Brazil, as its system adopted the civil law regime. While there were no express restrictions in Brazil regarding the use of a trust or its incorporation for Brazilian tax residents, there were no clear rules on how to declare trusts in Brazil or on how to tax income generated by a trust. However, the Law 14,754, of 12 December 2023, which amends the taxation of investments abroad by individuals who are tax residents in Brazil, also brought the provision and rules for the incidence of income tax on assets held under the trust.

The Law 14,754/23 formalized the trust institute in Brazilian legislation. Below are the highlights:

- The instrument will be considered transparent for tax purposes, and each asset subject to the trust will be taxed separately according to nature.
- The trust will be deemed to belong to the settlor for reporting purposes on the income tax return, and the income will be deemed to have been earned by the settlor.

- The assets and rights must be declared by the settlor until his/her death or distribution of the assets and rights, when they will be declared by the beneficiary.
- The transfer of the trust to the beneficiary will be exempt from income tax but will be treated as a donation (if it occurs during life) or causa mortis (if it occurs after the death of the settlor), with the incidence of ITCMD.
- For trusts that hold subsidiaries abroad, the subsidiaries will be considered as held directly by the settlor and must follow the rules of taxation of investments in subsidiaries abroad present in the law.
- The settlor or the beneficiary must request the trustee to provide information regarding the financial resources to enable the payment of the tax and the fulfillment of other tax obligations in the country.
- The settlor, if alive, or their beneficiaries, if they have knowledge of the trust, must, within 180 days from the date of publication of the law, amend the trust deed or the respective letter of wishes, to include wording that obliges, irrevocably and irreversibly, the trustee's compliance with the provisions contained in Brazilian law.

Tax residents in Brazil must still comply with the obligations to enter the trust in their annual income tax return (DIRPF) and in the Declaration of Brazilian Capital Abroad (DCBE), the latter of which must be submitted to the Central Bank of Brazil whenever the resident individual has more than US$1m outside Brazil. It should be noted that non-Brazilian assets are usually reported in the annual Brazilian income tax return and DCBE.

Beneficiary taxation

As mentioned in item 7, the assets and rights must be declared by the settlor until his/her death or distribution of the assets and rights, when they will be declared by the beneficiary. The transfer of the trust to the beneficiary will be exempt from income tax but will be treated as a donation (if it occurs during life) or causa mortis (if it occurs after the death of the settlor), with the incidence of ITCMD.

It is important to note that taxation on donations and inheritance is regulated by the Brazilian Federal Constitution. According to Article 155, paragraph 1, item III, only complementary law should provide for the incidence of tax on donations when the donor resides outside Brazil, or when the deceased had assets abroad or lived outside of Brazil. Although no complementary law has been enacted, the tax reform (PEC 45/19) established that, until such a law is issued, the ITCMD may be levied as follows:

(i) In the case of a donation where the donor is a resident or domiciled abroad, the ITCMD will be due to the state where the real estate and its respective rights are in Brazil. For other assets, the tax will be due to the state where the donee is domiciled or to the Federal District. If the donee is also a resident or domiciled abroad, the tax will be due to the state where the asset is located or to the Federal District.

(ii) In the case of succession involving assets located abroad, the tax will be under the jurisdiction of the state where the deceased was domiciled. If the deceased was a resident or domiciled abroad, the tax will be due to the state where the heir or legatee is domiciled.

Whenever due, the responsible party for collecting the ITCMD will be the resident taxpayer. Therefore, the person responsible for the collection in determined situations might be the donor or the donee. The payment should be made on the date the donation is received. Late payment or noncompliance will trigger fines of 20% on the balance due in cases of insufficient compliance.

8. Grants

Grantor taxation

From a tax perspective, a different tax treatment would be applicable to revocable and irrevocable trusts involving a settlor/grantor who is tax resident in Brazil. In cases of establishing irrevocable trusts, if the beneficiaries are tax residents in Brazil, they are required to report the assets held by the trust in their respective Brazilian income tax declarations. This obligation ensures compliance with Brazilian tax regulations and transparency regarding foreign assets, as the Brazilian tax authorities mandate that residents disclose their worldwide income and assets, including those held in trusts.

When considering a revocable trust, the settlor/grantor would have, in principle, the obligation to report to the Brazilian Internal Revenue Service and Brazilian Central Bank the assets under the trust in Brazil since the trust would be considered transparent from a Brazilian perspective. Therefore, the settlor/grantor would be obliged to report the underlying assets as they were directly held by him or her, and to recognize and pay tax in Brazil on the income or gains associated with or generated by them.

Due to the lack of specific legislation on this in Brazil, a case-by-case analysis may be necessary.

9. Life insurance

Life insurance is a contract between a person (the insured) and an insurance company. The insured agrees to pay periodic values (the premium), and in return, the insurer guarantees the payment of compensation to persons appointed by the insured in the insurance proposal. This compensation is paid only in the case of the death of the insured. The person who is nominated for this value is called the beneficiary.

The right to receive payment arising from life insurance is not part of the assets that comprise the estate of the insured, by express provision of the Brazilian Civil Code (Article 794), so no ITCMD will apply. However, it is important to note that while no ITCMD is applicable, Law 14,754/23 establishes that insurance policies held abroad, whose principal and earnings are redeemable by the policyholder or their beneficiaries, are considered foreign financial investments. Consequently, their earnings are subject to an annual 15% tax in the individual's income tax return.

Regarding life insurance in Brazil, in general, there are no income or inheritance taxes on the proceeds received from a life insurance policy. However, two well-known pension products in Brazil, the PGBL and VGBL, have sparked discussions regarding the applicability of ITCMD on benefit payments, particularly in the case of VGBL, which is classified as an insurance product. This is because there were interpretations that such insurance had a legal nature of financial application and not social security. This characteristic was because it has as its primary purpose the flexibility regarding the redemption of the amounts invested, since in the VGBL-type plans the redemption could be carried out in a single installment or in monthly installments. In the past, some court decisions recognized that the tax is not due on this transfer, given that the amounts would have a social security nature and, in this sense, would be exempt from ITCMD causa mortis. But some contrary decisions took place and the tax has been levied for the parties involved in the decisions.

As a way to standardize the understanding of the matter, in December 2024, the Brazilian Supreme Federal Court (STF), in a ruling with general repercussion, declared the imposition of ITCMD on private pension plans, whether PGBL or VGBL, to be unconstitutional. The court determined that since the amounts paid under PGBL and VGBL plans are disbursed directly by the insurers to the beneficiaries — without integrating the deceased's estate — there is no "transmission causa mortis." Consequently, the tax cannot be applied.

10. Civil law on succession

10.1 Succession

When an individual dies, his or her assets must be immediately transferred to his or her heirs. Inventory is a procedure that formalizes the division and transfer of assets to heirs; this procedure can be done judicially or extrajudicially. The inventory procedure applies when an individual has assets located in Brazil, even if the deceased was a foreigner and was not a tax resident of Brazil. Under Brazilian law, the inventory procedure must be held in Brazil if the deceased had tax residence in Brazil.

The inventory procedure must be established within 60 days after the death; if it is not, penalties may apply.

Extrajudicial inventory

An extrajudicial inventory is carried out in the notarial office when the deceased is not a minor (i.e., is 18 years of age or older) and left no will. This kind of inventory is usually faster and less expensive. However, it does need the support of a lawyer.

Judicial inventory

A judicial inventory is mandatory when:
(i) There are minors or disabled heirs.
(ii) The parties do not agree with the division of assets.
(iii) There is a will.

A lawyer is also required for a judicial inventory.

10.2 Will

A will is a legal document that establishes that after the death of the individual, the division of assets to heirs shall be according to his or her last wishes. Brazilian law provides three types of wills: public, closed and private. A public will is the most commonly used. If, at the time of death, there is no valid will, the inventory process will follow the general rules for the distribution of assets (see Section 10.3). Through a will, the individual is free to dispose of 50% of his or her estate. The other 50% should follow the general rules of succession (see Section 10.3), being distributed to the forced heirs in equal shares.

10.3 Forced heirship rules

Brazilian law respects the rights of the deceased's forced heirs. At the time the inventory is opened, the rights of the children and surviving spouse or life partner must be respected. If the individual does not leave descendants, the individual's parents and his or her spouse will be entitled to inheritance. If there are no descendants and no ascendants, the surviving spouse will become the sole heir. If there are no descendants, no ascendants and no surviving spouse, then collateral relatives (i.e., brothers, sisters, uncles, aunts, cousins, nephews and nieces) will inherit.

It is important to note that the governing marital regime can influence the size of the estate subject to the forced heirship rules (see Section 10.4).

10.4 Matrimonial regimes and civil partnership

The matrimonial regime chosen by the couple has a direct impact on the division of assets following an individual's death.

In Brazil, there are three main matrimonial regimes:
- Community property: The property of both partners, whether acquired before or after the marriage, is treated as joint property (except for gifts received with an incommunicability clause, i.e., a clause stating that the gift belongs solely to its receiver).
- Partial community property: This is the default regime. Only the property acquired during the marriage is treated as joint property. This does not apply to any property purchased during the marriage using funds or rights that date to before the marriage (such as an inheritance).
- Separate property regime: All property acquired either before or after marriage remains the property of the individual.

Brazil also has a "stable union" that is defined as a living relationship between two individuals that is enduring and has the purpose of constituting a family. Under this type of relationship, the partial community property regime will prevail (unless there is an agreement that stipulates other rules).

It is important to note that Brazil's Supreme Court has recently decided that a life partner shall have the same inheritance rights that a spouse would have if they were officially married. In other words, the partner in a stable union has been equated to a spouse, throughout the Brazilian territory, for succession/inheritance purposes.

As always, a case-by-case analysis may be necessary.

Since 2013, in the same way as heterosexual couples, same-sex couples have the right to civil marriage and the conversion from stable to civil union. Thus, same-sex marriages have all the rights and obligations provided by law and signed in the contract, such as the sharing of assets, inheritance of part of the spouse's assets in the event of death, participation in health insurance and alimony, for example. In addition, notaries and judges are strictly prohibited from refusing to register any such union. Divorce also works the same way.

11. Estate tax treaties

Brazil has not concluded any estate tax treaties with other countries in connection with inheritance tax.

Bulgaria

EY contacts:

Sofia

EY
Polygraphia Office Center
floor 4,
Tsarigradsko shose blvd 47A,
Sofia 1124
Bulgaria

Milen Raikov
milen.raikov@bg.ey.com
+359 2 81 77 155

Nevena Kovacheva
nevena.kovacheva@bg.ey.com
+359 2 81 77 146

1. Types of tax

Under the Bulgarian property law, the transfer of property might be subject to inheritance, gift or transfer tax, depending on whether the transfer takes place before or after the death of the testator, as well as on the availability of consideration or the lack thereof.

1.1 Inheritance tax

Bulgarian inheritance tax relates to the taxation of estate left by the deceased. Inheritance tax is levied on the estate located in Bulgaria or abroad if the deceased was a Bulgarian citizen and, on the estate, located in Bulgaria when the deceased was a foreign citizen. The inheritance estate includes movable and immovable property owned by the deceased and the rights to such, receivables and liabilities existing at the time of death, as well as other property rights belonging to the deceased prior to the death.

1.2 Gift tax

Subject to gift tax are free-of-charge transfers of property, debt forgiveness, acquisition of immovable property and rights in rem by prescription.

1.3 Real estate transfer tax

Subject to real estate transfer tax is the sale of immovable property (buildings and land) and rights in rem.

1.4 Individual income tax

Inheritance and estate taxes are not part of personal income tax (PIT) in Bulgaria.

1.5 Business tax

There is no business tax in Bulgaria apart from income taxes.

1.6 Deed tax

There is no deed tax in Bulgaria. However, notary fees apply to deeds that need notary certification.

1.7 Stamp duty

There is no stamp duty in Bulgaria.

1.8 Land appreciation tax

There is no land appreciation tax in Bulgaria.

1.9 Endowment tax

There is no endowment tax in Bulgaria. However, when an individual receives an inheritance or a gift, they may be subject to inheritance tax or gift tax, depending on the value of the assets received and the relationship between the giver and the recipient. Endowments are taxed as gifts (see comments under Section 1.2).

1.10 Transfer duty

Besides real estate transfer tax, motor vehicles registered in Bulgaria are subject to transfer tax as transfers against consideration. Within two months of the acquisition, a declaration to the municipality should be submitted. However, acquisition of motor vehicles is tax-free if acquired:

- Before initial registration in Bulgaria
- By an individual located abroad, if no subsequent movement certification in Bulgaria is required
- After the registration of the vehicle is terminated due to total damage

1.11 Net wealth tax

There is no net wealth tax in Bulgaria.

2. Who is liable?

2.1 Inheritance tax

The heir is liable for inheritance tax except where exemptions apply.

2.2 Gift tax

The beneficiary of the gift is responsible for its gift tax, except where exemptions apply.

2.3 Transfer tax

Transfer tax is generally the responsibility of the purchaser, unless specific rules apply.

3. Rates

3.1 Inheritance tax

The tax rates are determined by each municipality within ranges determined in the law.
- For siblings and their children: from 0.4% to 0.8% per inheritance share above BGN250,000 (EUR128,000)
- For any other persons: from 3.3% to 6.6% per inheritance share above BGN250,000 (EUR128,000)

3.2 Gift tax

Gift tax is charged on the assessed value of the transferred property in an amount determined by each municipality within ranges provided in the law:
- From 0.4% to 0.8%: applicable to donations between siblings and their children
- From 3.3% to 6.6%: applicable to donations between any persons other than the persons referred to

3.3 Transfer tax

Transfer tax is determined by each municipality within the range of 0.1% to 3%, as set in the law.

4. Exemptions and reliefs

4.1 Inheritance tax

The following are examples of inheritance tax exemptions:

- The deceased's spouse and lineal decedents and ascendants
- The estate of deceased who have died for the Republic of Bulgaria or who have died in industrial accidents or natural disasters
- The estate left to the state and the municipalities
- The estate left to the Bulgarian Red Cross and/or the lawfully registered religious denominations in Bulgaria
- Any ordinary household furnishings
- Any small farm implements
- Libraries and musical instruments
- Works of art of the deceased
- Pensions not received by the deceased
- Immovable properties that are owned by Bulgarian citizens and located outside of Bulgaria, so long as the foreign inheritance tax on the property is duly paid in the foreign jurisdiction

Ordinary household furnishings, small farm implements, libraries and musical instruments are exempt from tax subject to the condition that the estate devolves to lineal relatives, a spouse or siblings.

4.2 Gift tax

The following are exempt from gift tax:

- Any properties acquired by:
  - The spouse and lineal descendants and ascendants
  - The state and the municipalities
  - Any public-financed educational, cultural and scientific research organizations, as well as any specialized institutions for provision of social services and any medical and social childcare homes
  - The Bulgarian Red Cross
  - The nationally representative organizations of people with disabilities and for people with disabilities
  - Any funds providing relief to victims of natural disasters and financing the conservation and restoration of historical and cultural landmarks
  - The medical treatment facilities covered under the Medical Treatment Facilities Law
- Any donations for medical treatment of citizens of a Member State of the European Union or of another state that is a Contracting Party to the Agreement on the European Economic Area, as well as of technical aids for people with disabilities
- Any humanitarian donations to persons who have lost between 50% and 100% of their working capacity and to socially disadvantaged individuals
- Any donations for not-for-profit legal entities that receive subsidies from the central government budget, and any not-for-profit legal entities, registered in the Central Register of Not-for-Profit Legal Entities designated for pursuit of public-benefit activities, in respect of any donations received and provided
- Any customary gifts (no definition of customary gift; in practice, the value of the gift is decisive)
- Any donations in favor of community centers
- Any assistance provided gratuitously under the terms and according to the procedure established by the Financial Support for Culture Law
- In-kind contributions to commercial corporations, cooperatives or not-for-profit legal entities

4.3 Transfer tax

The following are examples of exemptions from transfer tax:

- The state and the municipalities
- Any public-financed educational, cultural and scientific research organizations, as well as any specialized institutions for provision of social services and any medical and social childcare homes
- The Bulgarian Red Cross
- The nationally representative organizations of people with disabilities and for people with disabilities
- Any funds providing relief to victims of natural disasters and financing the conservation and restoration of historical and cultural landmarks
- The medical treatment facilities covered under the Medical Treatment Facilities Law

5. Filing procedures

5.1 Inheritance tax

Within six months following the grantor's death, either the lineal descendants, the parents and spouse or the siblings of the deceased who are eligible to acquire the estate should submit a declaration to the municipality providing the last residence of the deceased. The start date for any other beneficiary is six months from learning about the grantor's death.

In the declaration, heirs must itemize the grantor's estate as inherited by type, location and value. The competent municipality should determine the tax due and send a notification to each of the heirs about their portion of tax due. The tax should be paid within two months of receipt of the notification.

5.2 Gift tax

The tax should be paid upon the transfer of the property, and property rights on immovable property (buildings and land) or transport vehicles. In case of transfer of other assets, their acquisition shall be reported with a declaration and the gift tax due shall be paid within two months of the acquisition.

5.3 Transfer tax

The tax should be paid upon the transfer of the property. If the transaction is certified by a public notary, the latter supervises for the timely payment of the transfer tax before certifying the contract. After the contract is certified by the notary, and the property acquired, a declaration to the municipality should be submitted in two months' time.

6. Assessments and valuations

Inheritance tax

The value of inherited estates, apart from those exempt from tax, is determined and valued at the moment of discovering the inheritance.

Special rules apply for the evaluation of each asset from the estate. For example:
- Immovable property: at tax value determined by special rules in the law
- Foreign currency and precious metals: at the central exchange rate of the Bulgarian National Bank
- Securities: at market value or, where the market value cannot be established without considerable cost or difficulty, at nominal value
- Transport vehicles: at the insured value
- Any other movable property and rights: at market value
- Enterprises or participating interests in commercial corporations or cooperatives: at market value or, where determination of the market value requires considerable expense or causes difficulties, according to accounting data

The municipal authorities notify the beneficiaries ex officio about the tax due.

Gift tax

The taxable base is the value of the transferred property at the time of the transfer. The taxable base for levying gift tax is determined in the same way as the taxable base for inheritance tax elaborated above except for immovable property, to which the following rule regarding the evaluation applies:
- Immovable property: at the price agreed, or at the price determined by the state or municipality, or in case those are lower than the tax value, the taxable base is the tax value determined by special rules in the law

Transfer tax

The taxable base is the value of the transferred property at the time of the transfer.

The property value is determined as follows:
- Immovable property: at the price agreed or, if it is lower than the tax value, the latter is used as a taxable base
- Motor vehicles: at the insured value

7. Trusts, foundations and private purpose funds

There are no specific taxation rules regarding trusts, foundations and private purpose funds in Bulgaria.

8. Grants

If there are loans granted to the devisor, which are part of the inheritance from a tax perspective, they will be included in the assessment and valuation as liabilities together with all immovables and receivables. If immovables had been acquired with loans with mortgage over them and they are part of the inheritance, they are exempt from inheritance tax for the spouse and lineal heirs of the devisor. For any other non-lineal inheritor, inheritance tax is determined in accordance with each heir's inherited portion by law. A specific case-by-case analysis may be necessary to determine the correct tax assessment value considering loans.

9. Life insurance

Life insurance premiums are not subject to inheritance tax because they do not fall within the definition of inheritance estate to be succeeded.

10. Civil law on succession

Succession

Bulgarian law recognizes two types of succession: testamentary succession (when the deceased left a will) and intestacy (which applies in the absence of a will). The deceased's estate includes all properties, rights and obligations that he or she owned as of the moment of death except for rights that are inseparable from the personality of the deceased, such as the right to alimony.

The inheritance can be accepted by means of a written application to the court or tacitly through an action that undoubtedly suggests the heir's intention to accept the inheritance. There is no statutory time limit to accept the inheritance. Still, any interested party may request from the court to define a time limit for the heirs to accept it. If the heirs fail to do so, they will lose their right to the inheritance.

By general rule, once accepted, the inheritance becomes a part of the heir's property. Heirs may also accept the inheritance by inventory, in which case the inherited property will be separate from the heir's own property and the deceased's obligations will be paid up to the amount of the inherited property only. The inheritance may also be refused by a written application to the court.

Testamentary succession

A will is a written document that regulates an individual's property after his or her death. Under Bulgarian legislation, a person can dispose of property by means of a will as long as the statutory reserve of the by-law heirs is not affected.

Bulgarian civil law recognizes two types of will: a handwritten will and a notarized will. The two types have equal validity at law, and neither has precedence over the other. The law prescribes specific requirements for the validity of the two types of will.

Matrimonial regimes and civil partnership

There are three matrimonial regimes in Bulgaria: matrimonial community property, regime of separate ownership and matrimonial agreement. The preferred regime can be chosen upon the commencement of the marriage or afterwards, by means of an agreement between the spouses. The choice of matrimonial regime has to be registered with the Register of Property Relations Between Spouses in order to take effect.

The default regime of matrimonial community property will always apply unless another regime is chosen by the spouses. Under this regime, all property acquired by the spouses after the marriage is subject to a joint title, except for:

- Bank deposits
- Property needed for the professional activities of a spouse
- Assets acquired through inheritance and donations by one of the spouses

Under the regime of separate ownership, each spouse retains the sole title to all assets he or she acquires before and during the marriage.

By a matrimonial agreement, the spouses can make arrangements about their property relationships. Arrangements aimed to regulate the property of a spouse after death cannot be included in a matrimonial agreement as these have to be stipulated in a will.

The surviving spouse is always an heir of the deceased unless the spouses divorced before the death.

Civil partnerships are not recognized in Bulgaria, and there is no common property or other financial consequences of them.

Intestacy

In the absence of a will of the deceased, the regime of intestacy will apply. In Bulgaria, only private individuals can be heirs by law. All children of the deceased, including adopted ones, have equal inheritance rights.

Intestacy is performed in turns. Bulgarian law stipulates four priority turns of heirs by law.

First priority turn	Children and other descendants
Second priority turn	Parents or the surviving one
Third priority turn	Ancestors of second or higher degree, brothers and sisters
Fourth priority turn	Collateral relatives of up to sixth degree

Each priority turn excludes the ones following it. For instance, heirs from the first priority turn inherit the deceased's property on their own and heirs from the following priority turns can inherit only if there are no heirs of the first priority turn or all of them refused the inheritance.

If there is a surviving spouse, he or she inherits together with the heirs from first to third priority turn and excludes the fourth turn, in which case the surviving spouse inherits solely by himself or herself.

In case there are no heirs or all the heirs refuse the inheritance, the latter is acquired by the state, except for the movables and residential property, which become property of the municipality.

Forced heirship

Some categories of by-law heirs (descendants, parents and the surviving spouse) cannot be disinherited by testamentary dispositions, as a part of the testator's property is reserved for them (the legal reserve). Still, the testator can freely grant the rest of the property to persons different from the by-law heirs (disposable portion).

If the testator has disposed of property within the legal reserve, the by-law heirs have the right to claim reduction of the testamentary dispositions and the donations made during the testator's lifetime.

The proportion of the legal reserve and the disposable portion varies according to the heirs by law.

By-law heirs	Legal reserve	Disposable portion
Only one child or his or her descendants	1/2	1/2
Only two or more children (or their descendants)	2/3	1/3
Only surviving spouse	1/2	1/2
Only parents or one parent	1/3	2/3
Surviving spouse and parent/parents	1/3 1/3	1/3
One child and surviving spouse	1/3 1/3	1/3
Two children and surviving spouse	1/4 (each child) 1/4	1/4
Three or more children and surviving spouse	5/24 (each child, in case there are three children) 5/24	1/6 (4/24)

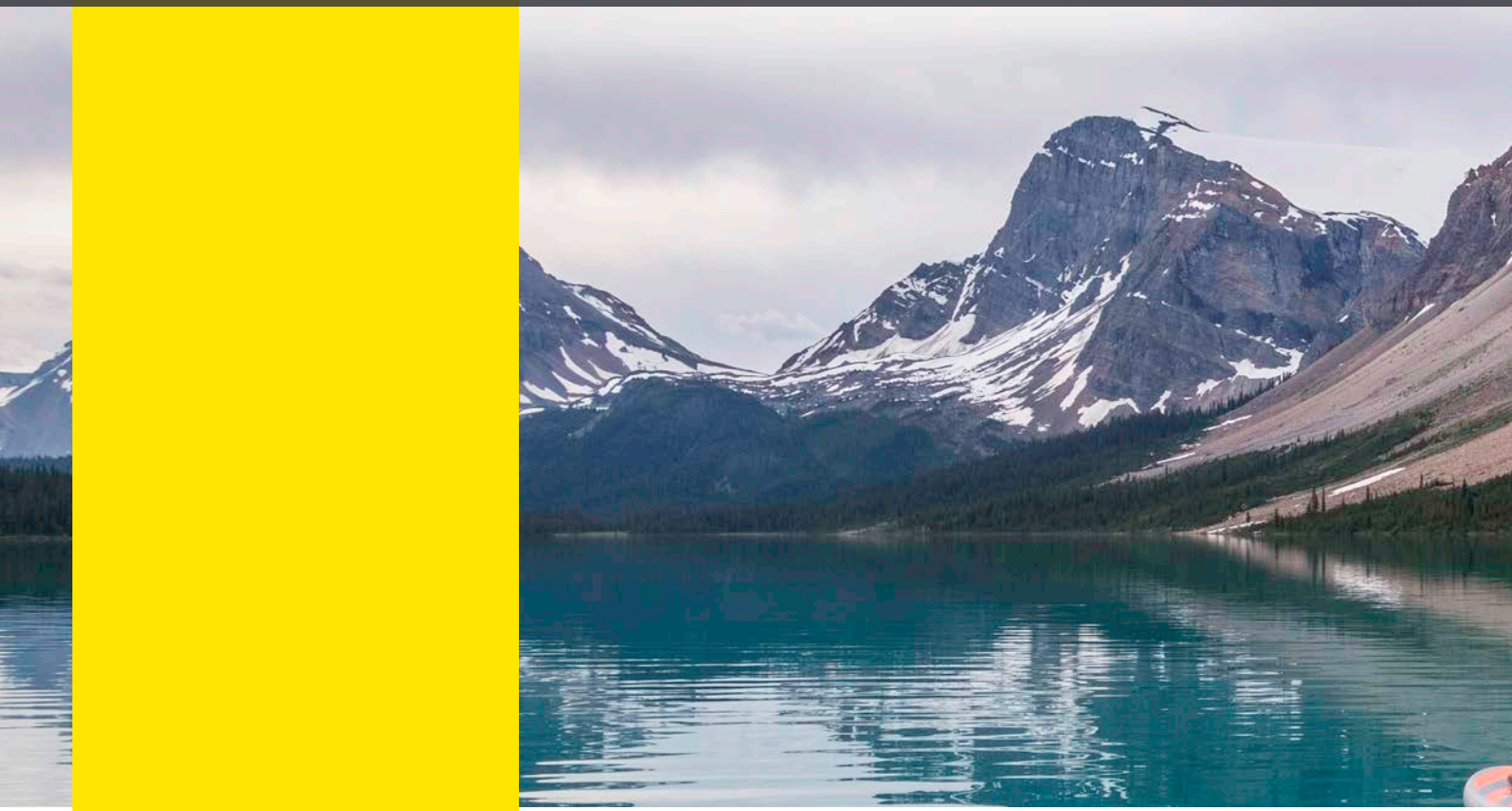
Probate

The procedure of execution of the will commences with the announcement of the will by a notary public. The will is executed by a person who manages the inheritance but has no power to dispose of it (executor). The testator may have in advance chosen the executor of his or her testamentary dispositions.

11. Estate tax treaties

Bulgaria has not entered into any international agreements regarding inheritance or gift tax.

Canada



EY contacts:

Toronto

EY
EY Tower
100 Adelaide Street W
Toronto, ON
M5H 0B3
Canada

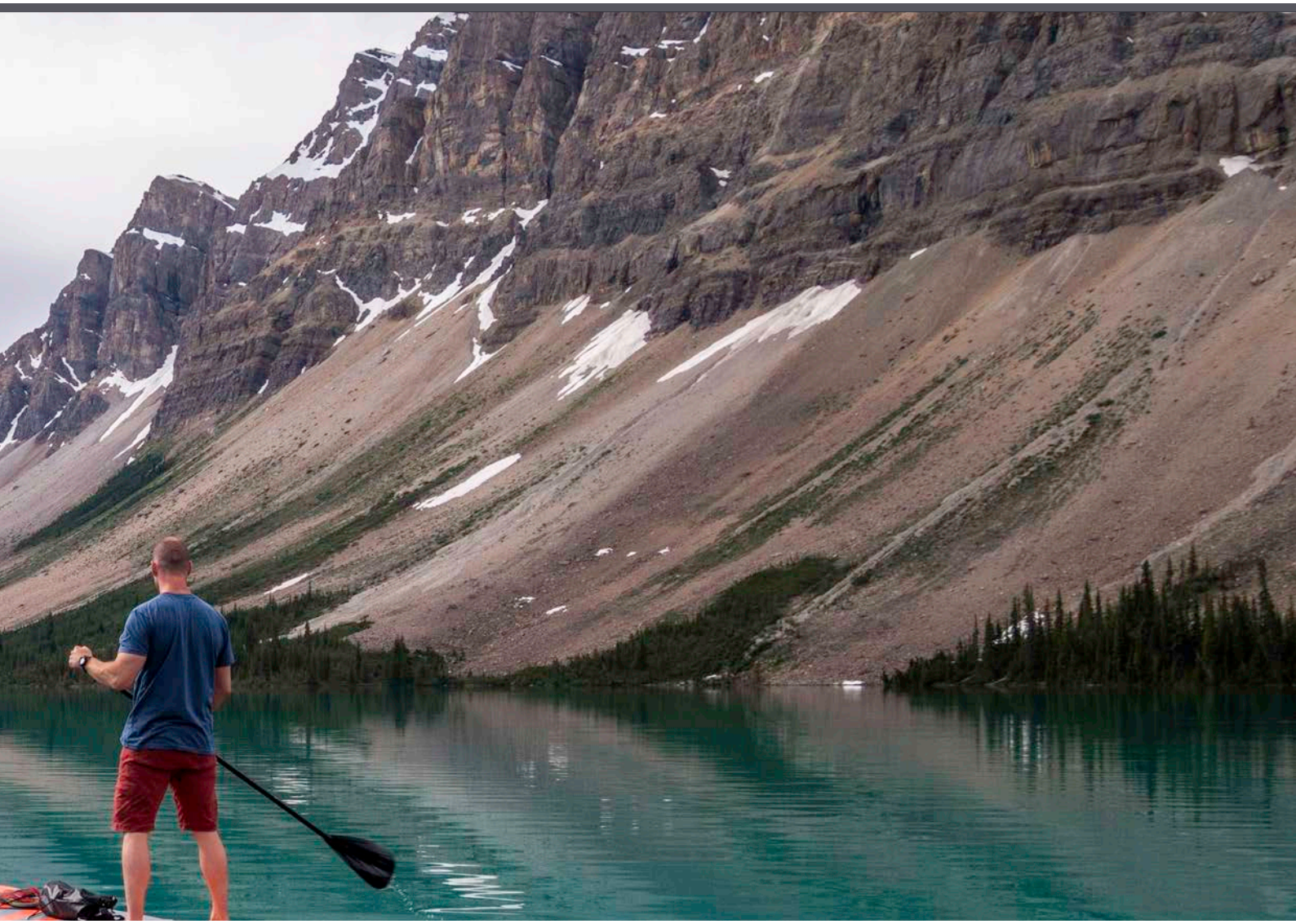
Teresa Gombita
teresa.gombita@ca.ey.com
+1 416 943 3272

Wesley Isaacs
wesley.isaacs@ca.ey.com
+1 416 932 6003

1. Types of tax

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, common-law partner or a dependent child or grandchild by reason of physical or mental infirmity.

Because the deemed disposition of capital property can result in significant tax liabilities, the Canadian Income Tax Act provides relief in some circumstances. For example, there are exceptions for transfers to spouses and certain transfers of farm and/or fishing property to children. These are discussed below.



1.1 Inheritance tax

There are no inheritance taxes in Canada.

1.2 Gift and endowment tax

Neither Canada nor its provinces have a separate gift or endowment tax regime. However, a disposition at FMV will arise when any property is gifted by a Canadian resident. In the case of Canadian residents, the deemed disposition rules apply to any property that is gifted. There are exceptions for transfers during their lifetimes to a spouse, common-law partner or qualified spouse trusts as discussed below, and special trusts created by an individual who is more than 65 years old for the benefit of themselves (an alter ego trust) or themselves and their spouse or common-law partner (a joint partner trust). For nonresidents, the rules will apply to gifts of taxable Canadian property, as defined in the next section.

1.3 Real estate transfer tax

Several provinces levy a tax on the transfer of real property, referred to as either a land transfer tax or real property transfer tax. For tax purposes, real property generally includes land, buildings or structures on land and any rights or interests in land. As a general rule, the tax applies to the property's FMV, which is normally based on the value of the consideration or sale price. Tax is generally paid when a person registers a transfer of land at a provincial land title office, although some provinces also impose tax on unregistered transfers of a beneficial interest in real property.

Provinces levying the tax generally exempt certain transactions from the tax. Some of the more commonly exempted transactions include:

- Transfers where the value of the land does not exceed a minimum threshold
- Transfers for nominal consideration
- Transfers between family members
- Transfers of farmland

In addition, many provinces provide an exemption for first-time home buyers.

The table below summarizes the 2025 land transfer tax rates by province and territory.

Province or territory	Tax or duty (CAD)[1]	Statute
Alberta	There is no land transfer tax; however, registration fees may apply.	N/A
British Columbia	Total of: 1% of the first CAD200,000 of the taxable transaction's FMV 2% of the land's FMV over CAD200,000, but not exceeding CAD2 million3% of the land's FMV over CAD2 million 5% of the land's FMV over CAD3 million if the property is residential (prorated for mixed-use property)[2] An additional 20% on transfers to foreign entities of residential property located in the Metro Vancouver Regional District, Capital Regional District, Fraser Valley Regional District, Regional District of the Central Okanagan and Regional District of Nanaimo Effective 1 January 2025, British Columbia levies a home flipping tax, applicable to the profit earned by a person from selling a residential property in the province (including presale contracts), if the person owned the property for less than 730 days. The tax rate is 20% of the profit earned from the sale if the property is owned for 365 days or less. If the property is owned for more than 365 days but less than 730 days, the tax rate is gradually reduced until it reaches zero if the property is owned for at least 730 days.	Property Transfer Tax Act

1 The rates and other information shown are current as of 1 February 2025.

2 Effective 1 January 2024, the tax rate is 3% on purchases of new qualifying purpose-built rental buildings applied to the FMV of the residential component of a taxable transaction that exceeds CAD3 million. In its 2024-25 budget, British Columbia announced an exemption from the general property transfer tax (i.e., a 0% tax rate) for purchases of new qualifying purpose-built rental buildings, effective for transactions that occur between 1 January 2025 and 31 December 2030. Corresponding legislation has since been enacted.

Province or territory	Tax or duty (CAD)[1]	Statute
Manitoba	Total of: 0.5% of the land's FMV over CAD30,000 to CAD90,000 1% of the land's FMV over CAD90,000 to CAD150,000 1.5% of the land's FMV over CAD150,000 to CAD200,000 2% of the land's FMV over CAD200,000	Part III (Land Transfer Tax) of The Tax Administration and Miscellaneous Taxes Act
New Brunswick	1% of the greater of: Consideration for the transfer Real property's assessed value	Real Property Transfer Tax Act
Newfoundland and Labrador	There is no land transfer tax; however, registration fees may apply.	N/A
Northwest Territories	Registration fees calculated as follows: If land's FMV does not exceed CAD1 million, CAD2.00 for each CAD1,000 of value or part thereof If land's FMV exceeds CAD1 million, CAD2,000 plus CAD1.50 for each CAD1,000 of value or part thereof exceeding CAD1 million	Land Titles Act
Nova Scotia	The tax is determined by each municipality and applied to the sale price of every property that is transferred by deed, with the maximum being 1.5 % of the value of the property transferred. The province also imposes a 5% provincial deed transfer tax on residential property purchased by nonresidents of Nova Scotia, effective 1 April 2022.[3]	Part V (Deed Transfers) of the Municipal Government Act Nonresident Deed Transfer Tax Act
Nunavut	Registration fees calculated as follows: If land's FMV does not exceed CAD1 million, CAD1.50 for each CAD1,000 of value or part thereof If land's FMV exceeds CAD1 million, CAD1,500 plus CAD1 for each CAD1,000 of value or part thereof exceeding CAD1 million	Land Titles Act

[3] Specifically, a person that tenders for registration a deed in respect of residential property that grants an ownership interest of greater than 50% to one or more nonresidents of Nova Scotia is required to pay a 5% deed transfer tax on the property's sale price or assessed value, whichever is greater, subject to certain exceptions.

Province or territory	Tax or duty (CAD)[1]	Statute
Ontario	Total of: 0.5% of the value of the conveyance's consideration up to and including CAD55,000 1% of the value of the conveyance's consideration exceeding CAD55,000 up to and including CAD250,000 1.5% of the value of the conveyance's consideration exceeding CAD250,000 up to and including CAD400,000 2% of the value of the conveyance's consideration exceeding CAD400,000 2.5% of the value of the conveyance's consideration exceeding CAD2 million (only where the conveyance of land contains at least one and not more than two single-family residences) An additional 25% tax is levied on transfers of residential property to foreign entities.[4] The city of Toronto also levies a municipal land transfer tax at the same rates as the province. However, Toronto has approved additional brackets for high-value residential properties where the conveyance of land contains at least one and not more than two single-family residences. For transfers registered on or after 1 January 2024, the additional brackets are: 3.5% of the conveyance's consideration exceeding CAD3 million up to and including CAD4 million 4.5% of the conveyance's consideration exceeding CAD4 million up to and including CAD5 million 5.5% of the conveyance's consideration exceeding CAD5 million up to and including CAD10 million 6.5% of the conveyance's consideration exceeding CAD10 million up to and including CAD20 million 7.5% of the conveyance's consideration exceeding CAD20 million Effective 1 January 2025, Toronto levies an additional 10% tax on transfers of certain residential properties to foreign buyers.	Land Transfer Tax Act
Prince Edward Island	1% of the greater of: Consideration for the transfer Real property's assessed value Land transfer tax is not applied when the greater of the consideration or assessed value does not exceed CAD30,000.	Real Property Transfer Tax Act

[4] Ontario increased the nonresident speculation tax (NRST) rate from 20% to 25%, applicable to binding agreements of purchase and sale entered into on or after 25 October 2022. Prior to 30 March 2022, the NRST rate was 15% and applied only to purchases of residential property located in the Greater Golden Horseshoe Region of southern Ontario. Effective that date, Ontario increased the tax rate to 20% and extended the NRST to apply to purchases or acquisitions of residential property anywhere in the province.

Province or territory	Tax or duty (CAD)[1]	Statute
Quebec	Total of: 0.5% of the basis of imposition up to and including CAD61,500 1% of the basis of imposition exceeding CAD61,500 up to and including CAD307,800 1.5% of the value of the basis of imposition exceeding CAD307,800 The basis of imposition being the greater of: Consideration furnished for the transfer Consideration stipulated for the transfer The immovable's market value at the time of the transfer A municipality may also adopt a by law to set a higher rate for any part of the basis of imposition that exceeds CAD500,000. This rate may not exceed 3%, except for the City of Montreal. The city of Montreal levies a municipal land transfer tax for which brackets are modified annually. For transfers registered on or after 1 January 2025, the tax is the total of: 0.5% of the basis of imposition up to and including CAD61,500 1% of the basis of imposition exceeding CAD61,500 up to and including CAD307,800 1.5% of the basis of imposition exceeding CAD307,800 up to and including CAD552,300 2% of the basis of imposition exceeding CAD552,300 up to and including CAD1,104,700 2.5% of the basis of imposition exceeding CAD1,104,700 up to and including CAD2,136,500 3.5% of the basis of imposition exceeding CAD2,136,500 up to and including CAD3,113,000 4% of the basis of imposition exceeding CAD3,113,000 The basis of imposition is the same as for the Quebec land transfer tax.	An Act Respecting Duties on Transfers of Immovables
Saskatchewan	There is no land transfer tax; however, registration fees may apply.	N/A
Yukon	There is no land transfer tax; however, registration fees may apply.	N/A

1.4 Transfer duty

The only transfer taxes in Canada are on real estate, as noted above.

1.5 Net wealth tax

Canada does not have a net wealth tax.

1.6 Housing

An annual 1% underused housing tax applies to the taxable value of vacant or underused residential property that is directly or indirectly owned by nonresident, non-Canadians (e.g., individuals who are neither Canadian citizens nor permanent residents of Canada, or corporations that are incorporated outside of Canada), effective 1 January 2022. Various exceptions apply.[5] The stated purpose for the underused housing tax is to ensure that nonresident owners who are using Canada as a place to passively store their wealth in housing pay their fair share. Taxable value for a calendar year, for purposes of this tax, is defined as the greater of (1) the property's assessed value for property tax purposes or (2) the property's most recent sale price on or before 31 December of the calendar year. An owner can also elect to use the property's fair market value as the tax base, as determined at any time on or after 1 January of the calendar year and on or before 30 April of the following calendar year. A return for a calendar year (Form UHT-2900) must be filed for each residential property and is due on or before 30 April of the following calendar year. Failure to file a return as and when required may result in the imposition of significant penalties. However, the Canada Revenue Agency administratively waived penalties and interest for the 2022 calendar year for any late-filed returns and late payments of underused housing tax owing, provided the 2022 returns were filed and tax payments were made by 30 April 2024.

Effective 1 January 2023, individuals who are neither citizens nor permanent residents of Canada cannot purchase a residential property in Canada for a two-year period. On 4 February 2024, the federal government announced a two-year extension of the foreign ownership ban, to 1 January 2027. The ban also applies to private corporations that are based in Canada but controlled by non-Canadians. Certain exceptions apply. Noncompliance with the ban could result in a fine of CAD10,000 and a requirement to sell the purchased property.

2. Who is liable?

The taxation of individuals in Canada is determined by residence. Canadian residents are subject to tax on their worldwide income. Likewise, the deemed disposition at death applies to the worldwide assets of all Canadian residents at the time of death. Nonresidents may also be liable for tax at the time of death if they own taxable Canadian property.

2.1 Residency

Canadian residents

The Canadian courts have developed various principles to determine whether a person is a Canadian resident. In applying these principles, the Canada Revenue Agency (CRA) will typically consider the following factors:

- Whether the person maintains a dwelling place (or places) in Canada
- The amount of time spent by a person in Canada
- Employment in Canada or other economic ties
- Landed immigrant status or appropriate work permits in Canada
- The motives or reasons for a person being present in or absent from Canada during the year

[5] Certain categories of owners are exempt from paying the underused housing tax but must still file an annual return for each residential property owned ("affected owners" eligible for an exemption), while other categories of owners are exempt from both the tax and the filing requirements ("excluded owners").

- The person's origin and background
- The person's general mode or routine of life
- Whether the person has provincial health coverage
- The possession of a Canadian driver's license or the registration of a vehicle in Canada
- The possession of a Canadian passport
- Other connections the person has with Canada, such as ownership of property, membership in clubs and presence of relatives

A person may be a resident of more than one country during the same period of time. Where an individual is considered to be a resident of Canada and also a resident of a treaty country, the applicable treaty will normally determine the country of residence under the "tiebreaker" rules.

In addition to the judicially developed tests, statutory tests may deem a person to be a Canadian resident. The key rule is that a person is deemed to be a resident for any tax year in which he or she spends 183 or more days in Canada.

Nonresidents who hold taxable Canadian property

The Income Tax Act establishes procedures for collecting tax from nonresidents on the disposition of taxable Canadian property.

In general, the definition of taxable Canadian property will limit the taxation of capital gains realized by nonresidents to direct and indirect interests in Canadian real estate, Canadian resource properties or timber resource properties (the specified assets). It should be noted that while the rules are very similar to the rules in the United States, there is a significant difference in that the shares of any corporation, even if it is nonresident, will be considered taxable Canadian property if more than 50% of the FMV of the shares was derived, directly or indirectly, from the specified assets at any time during the prior 60 months.

A nonresident disposing of taxable Canadian property must obtain a certificate of compliance and furnish acceptable security (normally 25%[6]of the expected gain on account of any potential Canadian income tax liability arising on the disposition of a taxable Canadian property). These rules do not apply to a deemed disposition at death. However, the executor, acting on behalf of a nonresident decedent, must file an income tax return for the year of death and pay any tax that may be necessary on the deemed disposition.

2.2 Domicile

Canada only taxes individuals based on residency and does not consider the domicile of taxpayers for the calculation of tax.

6 Draft legislation proposed to increase the amount from 25% to 35% for dispositions of taxable Canadian property occurring on or after 1 January 2026.

3. Rates

Canadian maximum personal marginal income tax rates – 2025[7]				
	Ordinary income (%)[8]	Eligible dividends (%)[9]	Ordinary dividends (%)	Capital gains (%)[10]
Alberta	48.00	34.31	42.30	24.00
British Columbia	53.50	36.54	48.89	26.75
Manitoba	50.40	37.78	46.67	25.20
New Brunswick	52.50	32.40	46.83	26.25
Newfoundland and Labrador	54.80	46.20	48.96	27.40
Northwest Territories	47.05	28.33	36.82	23.53
Nova Scotia	54.00	41.58	48.27	27.00
Nunavut	44.50	33.08	37.79	22.25
Ontario	53.53	39.34	47.74	26.76
Prince Edward Island	52.00	36.54	47.92	26.00
Quebec	53.31	40.11	48.70	26.65
Saskatchewan	47.50	29.64	41.34	23.75
Yukon	48.00	28.92	44.05	24.00

	Rate	Bracket (CAD)
Nonresidents	22.20%	0
	30.34%	CAD57,376
	38.48%	CAD114,751
	42.92%	CAD177,883
	48.84%	CAD253,415

7 The rates shown are the 2025 maximum combined federal and provincial marginal tax rates, including surtaxes where applicable, based on known rates as of 15 January 2025.

8 Ordinary income includes such items as salary, interest, business income and income from other sources, but excludes Canadian dividends and capital gains.

9 The rates apply to the actual amount of taxable dividends received in the year. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payer corporation as an eligible dividend).

10 The 2024 federal budget and corresponding draft legislation (the "capital gains proposals") introduced an increase in the capital gains inclusion rate (the proportion of realized capital gains that is subject to taxation) from one-half to two-thirds, effective for dispositions of property occurring on or after 25 June 2024. On 31 January 2025, the Department of Finance announced that the federal government is deferring the effective date of this increase in the capital gains inclusion rate from 25 June 2024 to 1 January 2026. Under the capital gains proposals, individuals and GREs would benefit from a capital gains reduction that would reduce the capital gains inclusion rate to one-half on up to CAD250,000 of net capital gains realized in a taxation year. As of the time of writing, the federal parliament is prorogued until 24 March 2025 and a federal election must be called before October 2025, which may result in a change in government. Therefore, there is some uncertainty regarding the timing and even the likelihood that these proposals will be enacted.

4. Exemptions and reliefs

Transfers to a spouse or qualifying spouse trust

In certain family situations, taxation resulting from the deemed disposition at death can be deferred either totally or partially. If the property is transferred to the Canadian resident spouse of the testator or to a qualifying spouse trust, there is total deferral. For these purposes, a spouse would include a common-law partner of either the opposite or same sex. The spouse or spouse trust acquires the property at the deceased's cost, and any gain is deferred until the spouse or spouse trust disposes of it or until the death of the spouse. Any income from the property or any gain upon its ultimate disposition will be taxed in the hands of the transferee. For a trust to be considered a qualifying spouse trust and eligible for the deferral of capital gains tax (CGT), the following criteria must be met:

- The deceased transferor must have been a resident in Canada at the time of death.
- The trust must be a resident in Canada when the property vests in the trust (spouse beneficiary could be nonresident).
- The trust must be created in the deceased's will.
- The terms of the trust must provide that the spouse of the deceased is exclusively entitled to all of the income generated by the property in the trust during the spouse's lifetime.
- The terms of the trust must provide that no one other than the spouse is entitled to either income or capital of the trust while the spouse beneficiary is alive.

Graduated rate estates

An estate is considered a testamentary trust for income tax purposes and is generally created on the death of an individual. The settlor of the estate would be the deceased individual, with the settlement property being the assets owned by the deceased at the date of death. The trustee(s) and beneficiaries would be named in the deceased's will.

For 2016 and later taxation years, all testamentary trusts are subject to a flat rate of income tax equal to the top personal marginal income tax rate, except for graduated rate estates (GREs) and qualified disability trusts.[11] Provided certain conditions are met, graduated income tax rates can apply to GREs for the first 36 months after the individual's death. There can be only one GRE designated in respect of any individual. After the 36-month period, the trust loses its GRE status and is then subject to the top flat-rate taxation.

Some of the significant benefits available to GREs include:

- Taxation of income earned and retained in the estate at graduated tax rates instead of the top marginal rate
- Availability of certain postmortem relief provisions
- Flexibility regarding who may claim the tax credit for charitable donations made by will
- Ability to maintain a non-calendar year-end
- Exemption from the additional trust reporting requirements that apply to many trusts with taxation years ending on or after 30 December 2023.

Capital gains exemption

Where the deceased owns shares of a qualifying small business corporation (QSBC) or qualified farm and/or fishing property, CGT will be reduced if the deceased's CAD1,250,000[12] lifetime capital gains exemption can be claimed on the terminal return. This will depend on whether all or a portion of this exemption remains unclaimed at death and whether the shares of the QSBC or farm and/or fishing property qualify for the exemption. Where shares of a QSBC or farm and/or fishing property are left to a surviving spouse, the personal representative may choose to elect out of the automatic rollover to realize a portion of the capital gain that can be sheltered by the deceased's available exemption.

---

11 See footnote No. 14.

12 Draft legislation has increased the lifetime capital gains exemption limit from CAD1,016,836 to CAD1,250,000 for dispositions that occur on or after 25 June 2024. Indexation of this limit to inflation will resume in 2026.

Note that the application of this exemption is fairly limited in scope:

- It is not available to nonresidents.
- To qualify as shares of a QSBC, the corporation must be a Canadian-controlled private corporation and must meet certain tests with respect to the use of its assets in Canada, and the shareholder must meet a holding-period test.

Using capital losses

In most cases, net capital losses can be used to offset net capital gains only. However, there is a relieving provision whereby net capital losses incurred on a deemed disposition at death can be applied to reduce income from any source in the year of death or the preceding year. This provision also applies to any net capital losses carried forward from previous years (to the extent that they exceed amounts previously claimed as a capital gains exemption[13] by the deceased) and net capital gains realized in the year of death.

In addition to a capital gain or loss, the disposition of depreciable property on the death of the testator may give rise to recapture of depreciation or terminal losses. For each item of depreciable property, the testator is deemed on death to receive proceeds equal to FMV. When the deemed proceeds exceed the undepreciated capital cost of the property, there will generally be a recapture of depreciation. This recapture must be included as part of the income of the testator in his or her terminal year's return. On the other hand, when the undepreciated capital cost of the property exceeds the deemed proceeds, a terminal loss will occur. In this case, the terminal loss can be deducted from income in the terminal year's return.

Transfer of farm and/or fishing property to children or grandchildren

If the property to be transferred during the lifetime or under the will is a farm and/or fishing property, an interest in a farm and/or fishing partnership or shares in a farm and/or fishing corporation, there can be a complete deferral of tax liability if the property is being transferred to the children or the grandchildren of the deceased and certain conditions regarding the use of the farm and/or fishing property are met. As the personal representative can elect to transfer the property to a child at any value between cost and FMV, it is possible to elect to realize sufficient gain to use the remaining capital gains exemption so that the child will have a higher cost for his or her future disposition. It is also possible to have a tax-deferred rollover back to a parent if the child predeceases their parent and had previously received the farm and/or fishing property on a tax-deferred basis.

5. Filing procedures

Canada taxes income as earned on the calendar-year basis. The personal representative will be responsible for filing one or more of the following returns:

- Prior year return: If an individual dies between 1 January and the usual filing date for the preceding year, he or she will often not have filed his or her tax return for the preceding year. In this situation, the filing deadline for the preceding year is the later of six months after the date of death, or the normal due date of the return (30 April or, if the individual or their spouse or common-law partner had business income, 15 June[14]).
- Terminal return – year of death: The return for the year of death, also referred to as the terminal return, will be due on 30 April of the subsequent year or, if the deceased or their spouse or common-law partner had business income, 15 June of the subsequent year. However, if the death occurs between 1 November and 31 December of the current year the deceased taxpayer's representative has until the later of the normal filing date or six months after the date of death to file the current year's return.
- Elective return – rights or things: If the deceased had any "rights or things" at death, these may be included in a separate tax return with a separate set of graduated tax rates. Rights or things generally mean amounts of income that were not paid at the time of death and that, had the person not died, would have been included in the person's income

13 This includes the lifetime capital gains exemption, a temporary CAD10 million capital gains exemption available on a qualifying business transfer to an employee ownership trust, and a proposed CAD10 million temporary capital gains exemption on qualifying sales of shares to a worker cooperative corporation.

14 Because 15 June 2025 is a Sunday, a return that is due on this date is considered filed on time if it is filed no later than 16 June 2025 (on the following Monday).

for the year in which they were paid. Examples include such items as matured but unclipped bond coupons, dividends declared but unpaid and unpaid compensation. This special return is due the later of one year from the date of death or 90 days after the mailing date of the notice of assessment of the final return.

In terms of planning, there are two basic reasons for filing as many tax returns as possible. The first relates to the fact that the income tax rates are progressive, and income starts at zero in each return. If multiple returns are not filed, there may be amounts taxed at higher rates than would have been the case if multiple returns had been filed.

The second advantage of filing multiple returns is that some personal tax credits can be deducted in each return. This could reduce the deceased taxpayer's estate's total tax liability.

Date for payment of tax

Generally, tax is due when the relevant returns are required to be filed. However, where the deceased individual is deemed to have disposed of capital property, resource property, land inventory or was entitled to a right or thing at death, the executor can elect to defer payment of a portion of the tax arising on such deemed dispositions or rights or things. Provided that acceptable security is posted with the CRA, the tax may be paid in as many as 10 equal annual installments, with the first payment due on the balance due date for the return. Each subsequent payment is due on the anniversary of the balance due date. Interest, calculated using the prescribed rate in effect plus 4%,[15] will apply to the outstanding amount, commencing at the balance due date until the full amount of the tax is paid. The accrued interest must also be paid at the due date for each installment.

6. Assessments and valuations

The CRA has not altered its official policy with respect to valuation issues since the issuance of IC 89-3, Policy Statement on Business Equity Valuations, in 1989, which defines FMV as:

"The highest price, expressed in terms of money or money's worth, obtainable in an open market between knowledgeable, informed and prudent parties acting at arm's length, neither party being under any compulsion to transact."

7. Trusts, foundations and private purpose funds

From an estate planning point of view, trusts are often used as a means of making lifetime gifts to enable the donor to place constraints on the donee. Property will normally be gifted at a time when it does not attract a tax liability, and any growth in value of assets held by the trust is outside of the donor's estate.

For example, inter vivos trusts are commonly used to hold participating shares of a holding company established as part of an estate freezing plan so that the growth in the value of the business or investments transferred to the company will accrue to the next generation. The transferor may be one of the trustees and, consequently, will be able to influence if and when distributions from the trust will be made.

Trusts are deemed to dispose of capital properties at FMV at certain specified times. In most cases, a trust will be deemed to dispose of its capital properties on the 21st anniversary of the date on which the trust was originally settled.

Generally, in situations in which the beneficiaries of a trust are residents of Canada, planning can be implemented that results in a deferral of CGT that the trust would otherwise pay because of the application of the 21-year deemed disposition rule. That planning often involves transferring the assets of the trust to its beneficiaries at the adjusted cost base amounts of the assets. The beneficiaries then pay CGT when they ultimately dispose of the assets that they have acquired from the trust.

---

[15] In 2024, the prescribed rate in effect was 6% for the first two quarters of the calendar year and 5% for the third and fourth quarters of the year. The prescribed rate decreased to 4% for the first quarter of 2025.

Most capital properties cannot be distributed by a trust to beneficiaries on a tax-deferred basis if the beneficiaries are nonresidents of Canada.

8. Grants

If an individual has paid into the Canada Pension Plan during their lifetime, their estate may file a claim to recover up to CAD2,500 of the cost of the funeral. This "death benefit" is taxable to the recipient and not reported on the final tax return of the decedent.

9. Life insurance

The receipt of life insurance proceeds is not taxable in Canada but could be subject to probate if the estate is named as the beneficiary of the insurance policy.

If a private company is the beneficiary of a life insurance policy, the insurance proceeds (net of the adjusted cost basis of the policy if the company is the owner of the policy) is added to the company's capital dividend account and a tax-free capital dividend can be paid to any Canadian resident shareholder. A capital dividend paid to a nonresident would be subject to the nonresident withholding tax applicable for taxable dividends.

10. Civil law on succession

Most of the Canadian legal system has its foundation in the British common law system, but Quebec still has a civil law system for issues of private law.

10.1 Estate planning

Estate planning in Canada can include implementing an estate freeze either by gifting assets directly to the next generation (resulting in a deemed disposition at fair market value) or by transferring the assets to a holding company on a tax-deferred basis by taking back fixed value preferred shares and having the next generation subscribe for the future growth shares, either directly or through a discretionary family trust for their benefit (see discussion above). An estate freeze using a family trust can also have the benefit of allowing the family access to multiple lifetime capital gains exemptions provided the trust holds and disposes of shares of a QSBC and the trustees allocate the taxable portion of the gain to the beneficiaries so they can use their respective capital gains exemptions. Amended rules, effective for 2018 and later taxation years, curtail the ability to income split with family members who become shareholders, directly or indirectly, of a holding company, but an estate freeze can still be implemented to manage the tax liability on death of the freezor.

10.2 Succession

This is not applicable to individuals in Canada.

10.3 Forced heirship

See comments below with respect to matrimonial regimes, as Canada does not have compulsory succession rules or forced heirship, other than the statutory rules for intestacy.

10.4 Matrimonial regimes and civil partnerships

Matrimonial regimes in Canada are governed by provincial law. Among Canadian provinces, there exists a broad spectrum of rights of spouses and dependents upon death. For example, Ontario's Family Law Act provides that a surviving spouse is absolutely entitled to half of the difference between the net family property of the deceased spouse and the net family property of the surviving spouse, if the former is greater. Spouses can contract out of these statutory rights to an equalization or division of family assets if they wish to do so.

There are other classes of people, besides spouses, who may make a claim that they should receive a greater share of the deceased's estate than was left to them in the will. Most Canadian provinces have legislation that allows dependents to claim the support and maintenance that the testator or testatrix had a duty to provide for them but failed to provide for them in the will. In general, this legislation gives the courts discretion to determine whether the individual is a dependent, whether adequate provision for support was made and on what terms and how much he or she should receive from the estate.

10.5 Intestacy

A will is a legal document that regulates an individual's estate after death. Canadian provinces will normally accept the formal validity of a will drawn under the laws of the deceased's place of residence at the time of making the will or at death. Whether the deceased had the personal legal capacity to make the dispositions in the will is generally governed by the law of the deceased's residence.

If there is no valid will at death, then the deceased's estate passes under predetermined rules known as intestate succession.

The intestacy rules are different depending on the province or territory in which the person was resident at his or her death. Generally, the laws of intestacy for the province of Ontario state that if the deceased had a spouse and no children, the spouse is entitled to receive the entire estate. The following table summarizes the intestacy rules for the province of Ontario. Other provinces have similar, but not identical, rules.

Survivor	Distribution
If a spouse	All to the spouse
If a spouse and one child	Preferential share (CAD350,000) to the spouse, remainder split equally between the spouse and the child
If a spouse and two or more children	Preferential share (CAD350,000) to the spouse plus one-third of remainder, two-thirds divided equally between children
If no spouse and one or more children alive	Children share equally: if one child is deceased but has children, those children get their parents' share equally (representation)
If no spouse and no children, but grandchildren	Grandchildren share equally regardless; no representation
If If no spouse, children or grandchildren (or other issue) is alive and a parent is alive	Parents share equally, or if only one parent, parent gets estate absolutely
If none of the above and at least one surviving brother or sister	Brothers and sisters share equally with representation

Survivor	Distribution
If none of the above and at least one niece or nephew	Nieces and nephews share equally with no representation
If none of the above and next of kin	Next of kin of equal degree of consanguinity to the intestate equally without representation; degrees of kindred shall be computed by counting upward from the deceased to the nearest common ancestor and then downward to the relative, and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree
If none of the above	His Majesty the King (escheat to the Crown)

10.6 Probate tax

Most of the Canadian provinces levy some form of probate fees/taxes based on the gross value of the estate. These fees/taxes are generally payable by the estate of a decedent immediately upon issuance of an estate certificate (or letters of probate). These documents generally authenticate the appointment of the personal representatives of an estate for third parties.

The following table shows the maximum rates applicable in the various provinces and territories:

Province/territory	Fee/tax (CAD)[16]
Alberta	525, where property's net value exceeds 250,000
British Columbia	350 + 14 for every 1,000 or portion thereof by which the estate's value exceeds 50,000
Manitoba	No probate (probate was eliminated effective 6 November 2020)
New Brunswick	5 per 1,000 or portion thereof by which the estate's value exceeds 20,000
Newfoundland and Labrador	60 + 0.60 for every additional 100 of the estate's value over 1,000
Northwest Territories	435, where the property's value exceeds 250,000
Nova Scotia	1,002.65 + 16.95 for every 1,000 or portion thereof by which the estate's assets exceed 100,000
Nunavut	425, where the property's value exceeds 250,000
Ontario	15 per 1,000 or portion thereof by which the estate's value exceeds 50,000
Prince Edward Island	400 + 4 per 1,000 or portion thereof by which the estate's value exceeds 100,000
Quebec	No probate

16 The rates shown are current as of 1 December 2024.

Province/territory	Fee/tax (CAD)[16]
Saskatchewan	7 per 1,000 of the estate's value or portion thereof
Yukon	140, where the estate's value exceeds 25,000

11. Estate tax treaties

Canada does not have any tax treaties dealing only with the taxation of estates. However, many provisions of its treaties will have an impact on estate planning. For example, most of Canada's international tax treaties prevent Canada from taxing gains on any property other than immovable property or property associated with a permanent establishment in Canada. For these purposes, immovable property is typically defined as real property or an interest therein, although particular tax treaties may provide expanded definitions. In addition, most tax treaties allow a country to tax gains on the disposition of an indirect interest in immovable property located in its jurisdiction. For example, under most treaties, the shares of a company or an interest in a partnership, trust or estate whose value is derived principally from immovable property will be exposed to tax in the jurisdiction in which that property is located. For these purposes, an entity is considered to derive its value principally from immovable property if that property represents more than 50% of the total FMV of the entity.

While Canada has no estate tax and no separate estate tax treaty with the United States, the Canada-US income tax treaty includes provisions for the application of the US estate tax to estates of Canadian citizens who are not US residents at death.

Chile

1. Types of tax

1.1 Inheritance and gift tax

Law No. 16,271 on Inheritance, Allocations and Donations Tax (hereinafter the "IH law"), levies the referred tax on donations and inheritance received by a person or entity resident or domiciled in Chile, of assets located in Chile, and also, donations and inheritance in favor of a foreign entity or person, consisting of Chilean source assets.

In the estate of a foreigner, neither domiciled nor resident in Chile, in which there are no assets located in Chile, and the assets located abroad were not acquired with Chilean resources, the IH law is not applicable. The same rule applies to gifts made abroad by a foreigner to a Chilean person or entity if the donated assets were not acquired with Chilean resources.

EY contact:

Santiago

EY
Presidente Riesco 5435
Las Condes
Santiago
Chile

Pablo Greiber
pablo.greiber@cl.ey.com
+56226761372

The IH tax is applied as a progressive rate that depends on the amount donated/inherited and ranges from 1% to 25%, with a 20% or 40% surcharge in case the relationship between the donor/deceased and the donee/heir is more distant or there is no relationship at all.

The IH tax is applied on the net value of each assignment or donation on a progressive rate, that is, the more distant the relationship of the person who inherits assets from someone who has died, the higher the tax will be; and since it is a progressive tax, the rate applied on the net value of each assignment or donation will depend on the amount of the same. Thus, the higher the value of the assignment, the higher the rate, and vice versa.

1.2 Real estate transfer tax

In Chile, there is no specific law that regulates real estate transfer tax. However, according to Chilean income tax law, the capital gain upon the transfer may be subject to income tax if transferred by an act between living persons, under certain circumstances. If transferred by gift or estate, IH tax will apply.

To determine the income tax on the sale or transfer of real estate, the following distinctions must be made before defining the applicable taxes:

- If the property was acquired before 2004, the law and rules in force at the time applies, so the sale will not pay income tax, unless the seller is customary in these operations, or it is sold before the year of its acquisition.
- For real estate acquired after 2004, an exemption quota of 8,000 Unidades de Fomento or "UF" (around USD330,500) is established for the life of the taxpayer, which releases the profits on the sale of the real estate, without establishing a maximum number of units. As an example, if in 2020 a person sells a real estate property acquired in 2004 with a profit of 6,000 UF (around USD248,000), he/she will not pay tax on that profit and 2,000 UF (around USD82,000) will still be available free of tax for future sales.

The above distinctions are only applicable to Chilean individuals with domicile in the country; Chilean entities are subject to corporate income tax upon the profit or capital gain.

1.3 Real estate property tax

The real estate tax is determined on the appraisal of the properties and its collection is destined in its totality to the municipalities of the country, constituting one of their main sources of income and financing.

The owner or occupant of the property must pay this annual tax in four installments, due in April, June, September and November.

Property appraisals are determined in the revaluation process and are updated semiannually with the variation of the CPI of the previous semester. The appraisals are also modified when physical changes are made to the properties.

The annual property tax rates to be applied are different, depending on whether the properties are agricultural properties (0.4%); nonagricultural nonhousing properties (1.042%); nonagricultural properties corresponding to unbuilt sites, abandoned properties, or ballast wells, located in urban areas (1.23%); or nonagricultural properties for housing (0.893% or 1.0425%).

In addition, the law establishes that a tax benefit surcharge of 0.025% will be applied to the highest rate for the nonagricultural series. According to the current rates, the highest rate for the nonagricultural series is 1.23%, which applies to nonagricultural properties corresponding to unbuilt sites located in urban areas. Therefore, this surcharge of 0.025% applies to nonagricultural properties subject to the 1.23% rate.

In turn, nonagricultural real estate subject to land tax, located in urban areas with urbanization and correspond to unbuilt sites, abandoned properties or ballast wells, are subject to a surcharge of 100% over the current rate of the tax. This surcharge does not apply in areas of urban extension or urbanizable areas.

The tax appraisals and exempted amounts, in force as of 31 December and 30 June of each year, are readjusted every six months as of 1 January and 1 July of each year, according to the percentage variation of the CPI in the immediately preceding six-month period.

In addition, the tax appraisal is used to determine the presumptive income of agricultural properties, calculation of maritime concession rights, reorganization of title deeds of the Ministry of National Property, inheritance taxes, discount of the value of the land in real estate businesses subject to VAT, and municipal rights for division or merger of land.

Finally, the land tax law considers general exemptions for housing and agricultural properties and special exemptions, for example, for properties used for worship, education and sports.

1.4 Real estate property surcharge

The 2020 tax reform introduced an additional obligation for taxpayers who own one or more properties, whether they are individuals, legal entities or unincorporated entities, to pay an additional land tax surcharge applied to the tax appraisal of real estate that in the aggregate exceeds 670 Annual Tax Units ("Unidades Tributarias Anuales" or UTA, with each UTA equivalent to USD875).

- It applies to individuals, legal entities and unincorporated entities that are direct owners of real estate.
- It does not apply to indirect owners or taxpayers under the SME regime, nor those who occupy fiscal real estate.
- It is calculated on the total tax appraisal, that is to say, on the sum of the tax appraisals of each of the real estate properties owned by the same taxpayer.
- Marginal rate is by brackets, from 0.075% on 670 UTA of total tax appraisal, up to 0.425%, on 1,510 UTA.

This surcharge became effective with tax year 2020, and it is accrued annually as of 1 January each year, considering the real estate registered in the name of the taxpayer as of 31 December of the previous year.

1.5 Endowment tax

There is no endowment tax in Chile.

2. Who is liable?

As a general rule, inheritances and donations of Chileans are subject to IH tax:

- If the deceased had his last domicile in Chile, the assets located in the country, as well as abroad, will be subject to this tax.
- In case the deceased did not have his last domicile in Chile, only the assets located in Chile are subject to the same tax.
- However, in the successions of foreigners, the assets located abroad must be listed in the inheritance inventory only when they have been acquired with resources coming from Chile.

Therefore, IH tax applies to the worldwide assets of Chilean residents. Also, all and only the Chilean assets are subject to tax if the deceased was not a Chilean resident at the moment of death.

Taxes paid abroad for the assets listed in the inheritance inventory could be used as a credit against the IH tax.

Regarding donations, the application of the aforementioned rules leads us to conclude that, if the donor is domiciled in the country, donations or gifts of assets located in the country and abroad are subject to tax. Otherwise, if the donor is not domiciled in Chile, the tax is only applicable to donations of assets located in Chile.

2.1 Residency

Regarding the concept of residence, the Chilean Tax Code defines resident as "any person who remains in Chile, uninterruptedly or not, for a period or periods that in total exceed 183 days, within any 12-month period."

Regarding the concept of "domicile," and in the absence of a legal tax definition in our legislation, we must resort to the concept of article 59 of the Civil Code: "The domicile consists of the residence, accompanied, real or presumed, by the intention to remain in it."

The Chilean tax authority has stated that a temporary residence visa alone is not sufficient to establish the constitution of domicile, nor is the acquisition of real estate for the purpose of spending future vacations. On the other hand, subject to verification by the tax authorities, an element of judgment to determine whether domicile has been constituted is the fact that, in addition to acquiring a real estate property, the taxpayer uses it as his and his family's residence, his children study there and he has an employment contract.

3. Rates

IH law establishes a progressive rate tax depending on the amount donated or inherited, ranging from 1% to 25%, with a 20% or 40% surcharge, in case the relationship between the donor and the donee is more distant or there is no relationship at all.

In accordance with said regulation, the tax will be applied on the net value of each assignment or donation, according to the following progressive scale and the procedure explained below:

Inheritance, allocations and donations tax scale[1]				
Rank	**Lower limit (UTM)**	**Upper limit (UTM)**	**Rate**	**Fixed deduction (UTM)**
1	0.1	960	1%	0
2	960.01	1,920	2.5%	14,4
3	1,920.01	3,840	5%	62,4
4	3,840.01	5,760	7.5%	158,4
5	5,760.01	7,680	10%	302,4
6	7,680.01	9,600	15%	686,4
7	9,600.01	14,440	20%	1166,4
8	14,440.01	And more	25%	1886,4

4. Exemptions and surcharge

The tax rates currently applicable and the tax-exempt and surcharge thresholds are listed in the table below.

Relationship to deceased or donor[2]	**Inheritance exemption**	**Donation exemption**	**Surcharge**
Spouse, ascendants, father or mother or adoptive parents, matrimonial, non-matrimonial or adopted children and their descendants.	50 UTA	5 UTA	0
Siblings, half-siblings, nieces, nephews, aunts, uncles, grandnieces, grandnephews, cousins and great-uncles (2nd, 3rd and 4th degree of collateral kinship).	5 UTA	5 UTA	20%
Any other more distant relatives or unrelated strangers.	No minimum exemption	No minimum exemption	40%

It should be noted that if an individual receives more than one gift from the same donor, the value of the donations made to that individual need to be recorded any time a new gift is granted to check if the cumulative sum exceeds the amount of threshold.

[1] 1 UTM = USD73.
[2] 1 UTA = USD875.

5. Filing procedures

In inheritance, the taxable event is the inheritance assignment, whether testate or intestate, and the responsible taxpayer is the beneficiary of each assignment.

Notwithstanding the foregoing, any assignee may pay the tax corresponding to all the assignments, thereby acquiring the right to obtain from the other assignees the refund of what he/she has paid in excess of the tax levied on his/her own assignment.

The tax accrues on the date on which the assignment is paid, which occurs, generally, with the death of the deceased.

The legal term to declare and pay the inheritance tax is two years and is counted from the date of death of the deceased person.

In the case of donations, the tax is applied on the amount of the donation, i.e., the act by which a person (donor) transfers, free of charge and irrevocably, a part of his property to another person (donee), who accepts it.

The responsible taxpayer is the donee, who is obliged to pay the tax levied on the donation he/she receives.

It must be noted that donations must be approved by a Chilean court before the donee files and pays the tax to the Chilean fiscal authority.

6. Assessments and valuations

To determine the amount on which the IH tax must be applied, it should be considered the value of all the assets of the deceased at the date of his death, in accordance with the rules of articles 46, 46 bis and 47 of the IH law, as detailed below:

- Value of agricultural and nonagricultural real estate: it must be recorded according to the real estate tax appraisal (determined by the Chilean tax authority) in force at the semester in which the death of the deceased occurred. Exceptionally, real estate acquired by the deceased, within the three years prior to his death, must be recorded at its acquisition value, if this is higher than the appraisal value.
- Property excluded from the real estate mentioned above: the value must correspond to the current market value.
- Movable goods: the value must correspond to the current market value.
- Household goods: the value must correspond to the current market value.

Exception: when it is not possible to justify the lack of personal property in the inventory, or those inventoried are not proportionate to the mass of property being transferred, or it has not been possible to value such property, the value of such property shall be taken as the amount corresponding to 20% of the value of the real estate in which it was located or to whose service or exploitation it was destined, even if the real estate was not owned by the deceased.

- Public bills of exchange, shares and marketable securities: the average value that these have had during the six months prior to the death of the deceased must be recorded. If they have not been listed on the stock market during said period, the Superintendence of Securities and Insurance or the Superintendence of Banks, as the case may be, will carry out their valuation. If the latter is not possible, they will be estimated at their current market value.
- Deposits, credits and pension funds: the value shown in the supporting document must be recorded. The credits of which the deceased was the holder must be recorded according to the liquidation value at the date of death.
- Vehicles: vehicles will be considered according to the appraisal value determined by the Chilean tax authority.
- Businesses or sole proprietorships or shares in communities owning businesses, companies or rights in partnerships: the value resulting from applying the percentage of the deceased's rights in the businesses, companies, communities or partnerships to the total value of their assets must be recorded.
- Debts: the value owed by the deceased at the date of death should be recorded.

Once the value of the total inventoried assets subject to tax has been determined, the write-offs authorized by the law must be deducted. The liquid inheritance thus established must be divided among the heirs, in accordance with the provisions of the law and/or the will.

The resulting allocation for each heir is converted into monthly tax units (UTM), according to the value of the same at the date of death of the deceased. Once the relevant exemption in case of kinship is reduced to this allowance, the progressive scale contained in the IH law is applied, on the resulting amount, if applicable, the surcharge established in the same law will be applied.

7. Grants

This does not apply to Chile.

8. Life insurance

Traditionally, life insurance payments were not taxable income in Chile. However, Law Nº 21,420 of 2022 includes these payments within the scope of the IH tax, with respect to insurance policies contracted as of 4 February 2022.

Exclusions apply to certain types of life insurance, such as mortgage liens, life annuity insurance or disability and survival insurance regulated by Law Decree 3500, and voluntary pension savings, among others.

9. Civil law on succession

In Chile, it is possible to succeed by will (testate succession) or by law (intestate succession). In testate succession (by will), it is the deceased who decides the distribution of their assets and designates their heirs. In our legal system he/she can do so but with certain limitations: he/she does not have full freedom to assign the estate, because he/she is obliged to comply with the forced allocations.

Forced allocations are those that the testator is obliged to assign and comply:

- The compulsory support that the deceased owed by law must be paid out of the assets of the estate.
- Legitimacy shares, which are made up of 50% of the assets (legitimated half) and are due to the forced heirs, such as the spouse or civil partner, descendants or ascendants (parents and grandparents).
- The quarter of improvements is made up of 25% of the assets and can be used to improve the situation of certain forced heirs (spouse or civil partner, descendants or ascendants).
- The remaining 25%, known as the "fourth of free disposal," can be freely assigned to any person or entity.

If the testator does not respect the rights that the law has reserved for the forced heirs, the latter may bring an action for reformation of the will.

In intestate succession (succession by law or without will), it is not the deceased who disposes of his property. In this case it is the law who determines who the heirs are and regulates the succession. This is why it is also called "legal succession."

Only those individuals who have the status of heirs of the deceased, that is, those who have the closest degree of kinship to the deceased, may succeed the deceased, according to the orders of succession (or forced heirship) established by law:

- First order of succession: the descendants of the deceased person (sons or daughters) and the surviving spouse or civil partner. The descendants may succeed personally or represented.

- Second order of succession: from the spouse or civil partner and the closest ascendants. If the deceased person had no descendants, he/she is succeeded by his/her surviving spouse or civil partner and his/her closest ascendants (e.g. mother, father, grandmother, grandfather):
  - If the deceased person had no ascendants to inherit, the inheritance is received only by his or her surviving spouse or civil partner.
  - If there is no surviving spouse or civil partner, his or her ascendants inherit.
- Third order of succession of brothers and sisters: if the deceased person has no descendants or ascendants, nor surviving spouse or civil partner, his sisters and/or brothers inherit, on the father's and mother's side or only on the mother's side or on the father's side. The brothers and sisters inherit personally or are represented by their descendants (nieces and nephews of the deceased).
- Fourth order of succession of collaterals: if there are no descendants, surviving spouse or civil partner, ascendants, sisters or brothers, the collateral relatives of the closest degree, up to and including the sixth degree (for example, cousins or cousins in the second degree), inherit.
- Fifth order of succession: in the absence of all the persons mentioned above, the Treasury inherits.

10. Estate tax treaties

10.1 Unilateral rules

In the successions of foreigners, the assets located abroad must be included in the inheritance inventory, only when they have been acquired with resources originating in the country.

The tax paid abroad for the assets listed in the inventory will can be used as a credit against the total tax due in Chile.

However, the amount of the tax under IH law may not be less than the amount that would have been due if only the assets located in Chile had been included in the inventory.

Regarding donations, if by application of the rules indicated in point 2 above, a donation made abroad is taxed in Chile, the donee may use as a credit against the donation tax payable in Chile the tax on the donation that was paid abroad. The excess credit against the tax payable in Chile will not be refundable.

10.2 Double taxation treaties

Chile has not signed any gift or inheritance tax treaties.

China Mainland

EY contacts:

Shanghai

EY
50th Floor, Shanghai World Financial Center
100 Century Avenue, Pudong New Area
Shanghai
200120

China

Karina Wong
karina.wong@hk.ey.com
+852 2849 9175

Andrew Chen
andrew-jp.chen@cn.ey.com
+86 21 2228 2116

Beijing

EY
Level 16, EY Tower, Oriental Plaza
No.1 East Changan Ave., Dongcheng District
Beijing
100738

China

Robin Xiao
robin.xiao@cn.ey.com
+86 10 5815 3630

Guangzhou

EY
18th Floor, EY Tower
No.13 Zhujiang East Road, Tianhe District
Guangzhou
510623

China

Ivy Sun
ivy.sun@cn.ey.com
+86 20 2881 2857

1. Types of tax

1.1 Inheritance tax

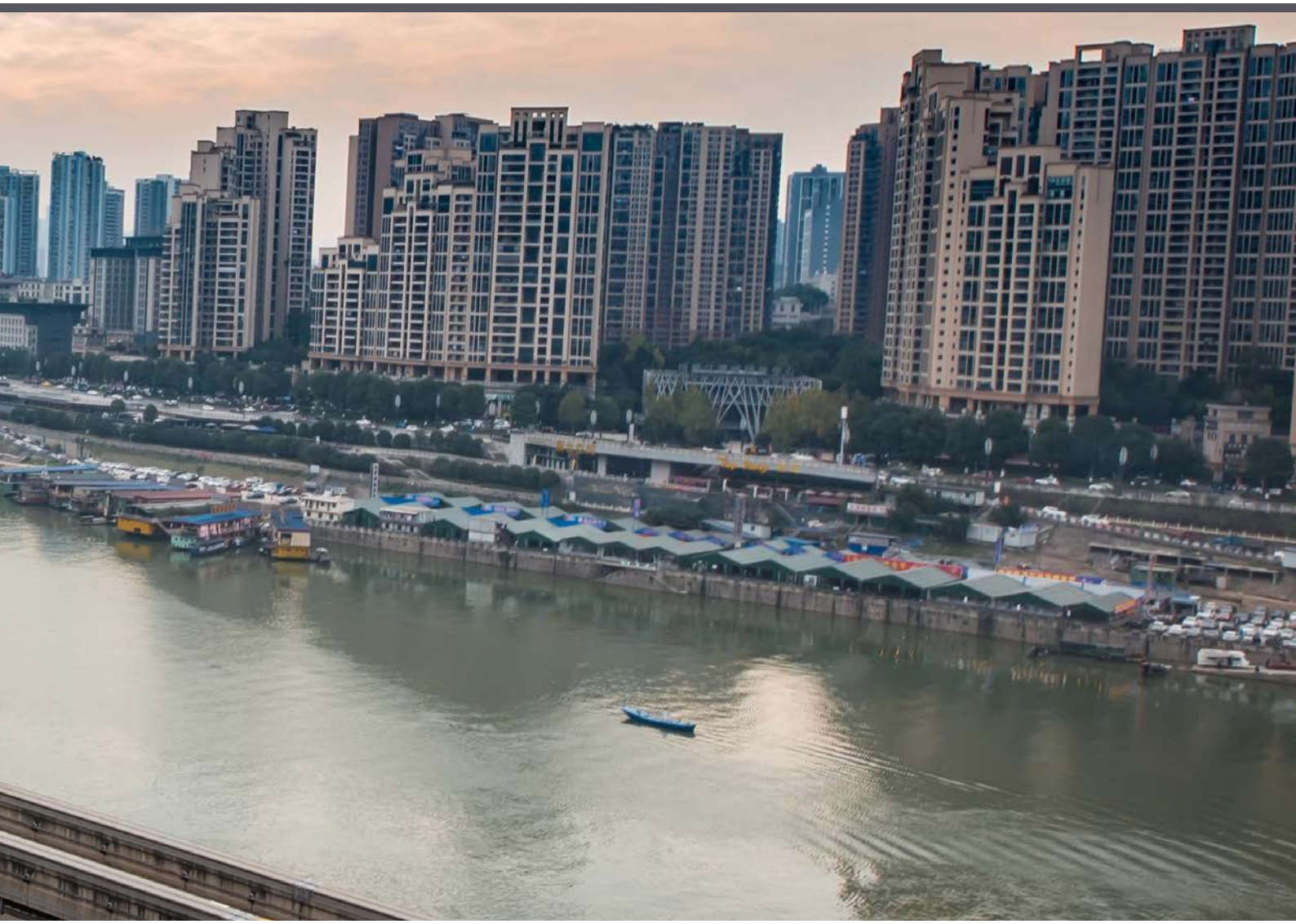
The mainland of the People's Republic of China (China) issued a draft rule on inheritance tax in 2002 to solicit public opinion. However, as of today, no statute has been passed to provide guidance on inheritance tax.

1.2 Gift tax

No gift tax is levied in China.

1.3 Real estate transfer tax

From an estate and succession perspective, no real estate transfer tax is levied in China. However, an individual's transfer of real estate or



land-use rights in China may be subject to individual income tax (IIT), value-added tax (VAT), deed tax, stamp duty and land appreciation tax.

1.3.1 IIT

In accordance with the provisions of Caishui [2009] No. 78 (Circular 78) and MOF/STA PN [2019] No. 74, if a transfer of real estate or land-use rights is made without consideration, the property received would be considered "contingent income" to the recipient and subject to IIT at a flat tax rate of 20%. However, according to Circular 78 and Guoshuifa [2009] No. 121, the transfer by virtue of inheritance or gift under the following circumstances will be exempted from the IIT:

- Gratuitous transfer of land-use rights or real estate to lineal relatives (i.e., spouse, children, parents, grandparents, grandchildren and siblings)
- Gratuitous transfer of land-use rights or real estate to dependents

- Gratuitous transfer of land-use rights or real estate to statutory heirs and legatees upon the death of the decedent
- Gratuitous transfer of land-use rights or real estate to a spouse by virtue of divorce

To claim IIT exemption on these transfers, transferees should fulfill the registration requirement with the tax authority and obtain written approval.

If the transfer is subject to IIT, the taxable income would be determined based on the value of the real estate or land-use rights stated in the succession or gift contract, subtracting the relevant taxes and expenses paid by the transferee. However, if the value stated in the contract is obviously lower than the fair market value (FMV), or there is no price available in the contract, the relevant tax authority may deem the taxable income according to the market appraisal price or through other reasonable methods.

If the transferee later resells the land-use rights or real estate, such transfer will be subject to IIT. The tax base will be the proceeds from the sale of land-use rights or real estate, less the original purchase cost of the decedent or the donor, and the expenses and taxes paid by the heir or donee in the transfer. Also, according to Caishui [1999] No. 278, individuals' transfer of the family's only residential real estate held for more than five years shall be exempted from the IIT.

IIT is required to be reported and paid upon transfer of legal title of the real estate at the real estate trading center.

1.3.2 VAT

Pursuant to Caishui [2016] No. 36 (Circular 36), real estate transactions are subject to VAT starting from 1 May 2016.

Circular 36 provides that individuals selling nonresidential real estate property should generally be subject to VAT at 5% on a net basis, i.e., total payment collected minus the purchasing cost of the property.

For individuals selling residential real estate property in areas excluding Beijing, Shanghai, Guangzhou and Shenzhen, the relevant VAT implications are as follows:
(a) 5% VAT rate imposed on the total payment collected for selling residential property acquired within two years.
(b) VAT exempted may be available for disposal of residential property if holding for more than two years.

For individuals selling residential real estate property in areas of Beijing, Shanghai, Guangzhou and Shenzhen, the relevant VAT implications are as follows:
(a) 5% VAT rate imposed on the total payment collected for selling residential property acquired within two years.
(b) 5% VAT rate imposed on the net gain (i.e., total payment collected minus original purchase price) for disposal of non-ordinary residential property if holding for more than two years.
(c) VAT exempted may be available for disposal of ordinary residential property if holding for more than two years.

Note: Local government authorities of different cities shall publish the criteria of the determination of ordinary and non-ordinary residential property.

Effective 1 December 2024, the special VAT treatment for the disposal of ordinary and non-ordinary residential property in areas of Beijing, Shanghai, Guangzhou and Shenzhen shall be removed, and relevant VAT treatment shall be the same for areas outside Beijing, Shanghai, Guangzhou and Shenzhen.

In addition, the following transfers of real properties between individuals are exempted from VAT, according to Circular 36:
- Gratuitous transfer of land-use rights or real estate to lineal relatives
- Gratuitous transfer of land-use rights or real estate to dependents
- Gratuitous transfer of land-use rights or real estate to statutory heirs and legatees upon the death of the decedent
- Transfer of land-use rights or real estate as a gift to a spouse by virtue of divorce

Individual transferors are required to comply with the relevant registration formalities of the tax authority to claim the VAT exemption on the gift of real estate or land-use rights.

On 25 December 2024, China's national legislature announced a new VAT law, which is set to take effect on 1 January 2026. As of 1 February 2025, no updates to the above regulations have been observed. We will closely monitor the future changes that may occur following the future execution of the new VAT law.

1.3.3 Deed tax

China levies deed tax on non-statutory successors who acquire real estate or land-use rights by virtue of inheritance or gift. Deed tax is required to be reported and paid upon transfer of legal title of the real estate at the real estate trading office by the transferee. However, inheritance by statutory successors is exempt from deed tax. Statutory successors include spouse, children, parents, siblings, paternal grandparents and maternal grandparents.

Deed tax rates range from 3% to 5%, depending on the location of the cities in different provinces. Effective from 22 February 2016, the tax rate applicable to residential properties (first or second home owned by one family) was reduced to 1%, 1.5% or 2%, depending on the size and utility of the housing. The tax base for deed tax calculation is deemed by the tax authority with reference to the market value of the real estate or the land-use rights.

1.3.4 Stamp duty

The stamp duty is imposed when a contract of property transfer is concluded. Both parties who sign the contract are liable for the stamp duty. The tax base for the stamp duty is calculated based on the value of the property (exclusive of VAT) specified in the contract. The tax rate applicable to the contract concluded for transferring property rights is 0.05%. The transfer of residential real estate by individuals is not subject to stamp duty.

1.3.5 Land appreciation tax

According to the China Temporary Regulation of Land Appreciation Tax (LAT), sale or compensated transfer of real estate or land-use rights is subject to LAT. A transferor who benefits from the transfer is liable for LAT. However, transfer of real estate or land-use rights without consideration – such as inheritance by statutory successors or gratuitous transfer of LAT to lineal family members – will not realize a charge. The transfer of residential real estate by individuals is not subject to LAT.

1.4 Endowment tax

No endowment taxes are levied in China.

1.5 Transfer duty

No transfer duty is levied in China.

1.6 Net wealth tax

No net wealth tax is levied in China.

2. Who is liable?

China residents

China residents include the following persons:

- Individuals who have their domicile in China
- Individuals who do not have their domicile in China, but reside in China for 183 days or more in a tax year

Individuals domiciled in China means those who, by reason of permanent household registration (i.e., Hukou), family ties and economic interest, habitually reside in China. China-domiciled individuals are subject to China IIT on their worldwide income. Non-domiciled individuals (i.e., non-China nationals) could be exempted from China IIT on non-China-sourced income paid by foreign companies or individuals if they are China tax residents for no more than six consecutive years and a registration is performed with China tax authorities. Note that if a non-domiciled individual stays outside of China for more than 30 consecutive days in any tax year during which he or she stays in China for 183 days or more, the consecutive years in which he or she is China tax resident will be recounted.

Nonresidents are subject to tax on their China-source income only.

2.1 Real estate located in China

In general, China exercises tax jurisdiction over the transfer of real estate or land-use rights located in the territory of mainland China regardless of the holder's domicile or residency status. Please refer to the preceding paragraphs regarding the relevant taxes that may be imposed on the transfer of real estate or land-use rights.

According to MOF/STA PN [2020] No. 3, a nonresident indirectly disposes offshore companies, of which the underlying investment is China real estate heavy, could be subject to IIT on the indirect transfer if certain conditions are met.

2.2 Real estate outside China

In the event of transfer of real estate outside China, no specific China tax regulation is available to guide the taxation on such transfers, except the provisions of IIT law.

Individuals who are domiciled in China and non-domiciled individuals who have resided in China for more than six consecutive years may be liable for IIT on the gain arising from the transfer of real estate located outside China.

3. Rates

Different tax rates are applicable to different types of taxes. Please refer to Section 1 for details.

4. Exemptions and reliefs

See Section 1 for details.

5. Filing procedures

See Section 1 for details.

6. Assessments and valuations

The tax base of properties that are acquired by virtue of inheritance or gift is the FMV of the property at the time of the transfer. The specific method of valuation may vary depending on the type of property.

Land-use rights and real estate

The value of land-use rights and real estate is generally determined based on the value specified in the transfer contract. The value in the transfer contract should be assessed and approved by the administration offices of land or real estate before the contract comes into effect. In most cases, the tax authority would rely on the value assessed by the administration offices of land or real estate. However, if the tax authority considers the assessed value to be far from the FMV, the tax may be levied on a deemed basis.

7. Trusts, foundations and private purpose funds

For purposes of succession and estate planning, no specific tax regulation has been issued by China for taxes on the income from trusts or foundations.

8. Grants

There is no inheritance tax in respect of death grants in China.

9. Life insurance

According to China's IIT law, life insurance compensations are generally exempted from IIT.

10. Civil law on succession

This is not applicable in China.

11. Estate tax treaties

No estate tax is levied in China. Therefore, no terms regarding estate tax are available in China's double-taxation treaties.

Cyprus

EY contact:

Nicosia

EY
Esperides Building
10 Esperidon Street
Nicosia
1087
Cyprus

Petros Liassides
petros.liassides@cy.ey.com
+357 22209797

1. Types of tax

Cyprus generally does not impose inheritance taxes or wealth taxes.

1.1 Inheritance tax

There is no inheritance tax in Cyprus.

1.2 Gift tax

There is no gift tax in Cyprus.

1.3 Real estate transfer tax

There is a transfer tax payable to the Department of Land and Surveys for transfers of immovable property situated in Cyprus. See Section 3 below for the transfer tax rates.

Stamp duty on contracts for transfer of immovable property situated in Cyprus is charged at 0.15% on amounts from EUR5,001 up to EUR170,000 of the consideration and at 0.2% on any consideration above that sum up to a maximum of EUR20,000 per contract.

1.4 Contribution to the Central Agency for the Equal Distribution of Burdens

A seller who, as part of a sales transaction, transfers immovable property for which a general valuation has been set by the Department of Lands and Surveys is liable for a contribution equal to 0.4% on the sale proceeds.

A similar contribution is also due when transferring shares, as part of a sales transaction, of a company that is not listed in any recognized stock exchange and directly or indirectly owns such immovable property. The contribution, at the rate of 0.4%, is estimated by reference to the latest valuation of the immovable property carried out by the Department of Lands and Surveys.

Transactions entered into as part of loan restructuring, company reorganizations or gifts/donations may be exempted from the above contribution.

1.5 Endowment tax

There is no endowment tax in Cyprus. The income arising from a scholarship, exhibition or any other educational endowment held by an individual receiving full-time instruction at a university, college, school or other recognized establishment is exempt from income tax.

1.6 Transfer duty

There is no transfer duty in Cyprus, except for real estate transfer fees and stamp duty as explained in Section 1.3, above and contribution to the Central Agency for the Equal Distribution of Burdens as explained in 1.4, above.

1.7 Net wealth tax

There is no net wealth tax in Cyprus.

1.8 Others

See below.

1.8.1 Personal income tax

Cyprus taxes the worldwide income of its tax residents, while nontax residents are taxed only on certain categories of income derived from sources within Cyprus. Income from employment exercised within Cyprus is considered as Cyprus-source income in this respect.

An individual is considered to be a tax resident of Cyprus if he or she is present in Cyprus for, in aggregate, more than 183 days in any calendar year. For the purpose of calculating the days of residence in Cyprus, the day of departure from Cyprus is considered to be a day out of Cyprus, the day of arrival into Cyprus is considered to be a day in Cyprus, the arrival in Cyprus and departure from Cyprus on the same day is considered to be a day in Cyprus, and the departure from Cyprus and return to Cyprus on the same day is considered to be a day out of Cyprus.

In addition to the above, an individual who does not stay in any other state for one or more periods exceeding, in aggregate, 183 days in the same year of assessment and who is not tax resident in any other state in the same year of assessment, is considered to be resident of the Republic in that tax year, provided that he or she cumulatively meets the following:

- Stays in the Republic for at least 60 days in the year of assessment

- Exercises any business in the Republic and/or is employed in the Republic and/or holds an office for a person tax resident in the Republic that is maintained until 31 December of the year of assessment
- Maintains a permanent residence in the Republic that is owned or rented by him or her

If the exercise of any business in the Republic and/or the employment in the Republic and/or the holding of an office for a person tax resident in the Republic is terminated, then the said person is not considered to be tax resident of the Republic in the particular year of assessment.

Personal income tax (PIT) rate for employees is levied based on the so-called Pay As You Earn (PAYE) system, in which the tax rate varies depending on the amount of the net annual taxable income earned per a tax year. See Section 3 below for PIT.

Employers are required by law to withhold PIT from all employees' salaries under the PAYE system.

The Cypriot Income Tax Law allows for a number of exemptions, deductions, allowances and reliefs.

1.8.2 Immovable property tax

As of 2017, the immovable property tax administered by the Tax Department has been abolished.

1.8.3 Capital gains tax

Capital gains tax (CGT) is imposed on profits from the disposal of:

- Immovable property situated in Cyprus
- Shares of companies whose property consists of, *inter alia*, immovable property situated in Cyprus
- Shares of companies that either directly or indirectly participate in a company or companies that own immovable property situated in Cyprus and at least 50% of the market value of such shares is derived from the relevant property
- Sale agreement of immovable property situated in Cyprus

Any trading profits derived from the disposal of shares of companies that directly or indirectly own immovable property in Cyprus will be subject to CGT if such profits are exempt under the Income Tax Law.

In cases involving a disposal of shares of companies that directly or indirectly hold property in Cyprus, the disposal proceeds subject to CGT are restricted to the market value of the immovable property held directly or indirectly by the company whose shares are sold.

In cases involving a disposal between related parties, the disposal proceeds subject to CGT are determined by reference to the market value of the property sold on the date of disposal.

Available exemptions:

- The disposal of shares listed on any recognized stock exchange is exempt from CGT.
- An exemption from CGT is granted on gains from the disposal of immovable property that was acquired between 17 July 2015 and 31 December 2016 provided that:
  - The property consists of land and/or building
  - It was acquired from an independent third party
  - It was not acquired through an exchange of property or donation/gift

The rest of the exemptions can be found in Section 4.5

The tax is imposed on the net profit from disposal at the rate of 20%. The net profit is calculated as the disposal proceeds less the greater of the cost or market value on 1 January 1980 adjusted for inflation. Inflation is calculated using the official Retail Price Index. The index on 1 January 1980 was 67.15 (base year1986).

1.9 VAT on immovable property

The sale of "new" buildings or part of buildings and the land on which they stand, and the sale of developed building land by taxable persons, are transactions subject to value-added tax (VAT) at the standard VAT rate (currently 19%). Also, as from 2 January 2018, the sale by taxable persons of undeveloped building land, which is intended for the construction of one or more structures during a business activity, is subject to 19% VAT.

"New buildings" are defined as any buildings that satisfy the following conditions (update as of 11 November 2022 – Regulatory Administrative Act (R.A.A.) 423/2022):[1]

- The application for a building permit was filed with the authorities after 1 May 2004.
- The sale is made within five years from the date of complete erection of the building (the building is ready for its intended use) and during those five years the building was not used systematically by a nonrelated party for at least two years.

Undeveloped building land subject to 19% VAT covers most land pieces, with the exception of those located in agricultural, environmentally protected, archaeological, livestock areas/zones and certain categories covered in Parliamentary Regulations.

The sale of shares in companies owning immovable property is exempt from VAT, but caution should be exercised in relation to deemed supplies provisions.

The sale of new buildings (or parts of them) may be subject to the reduced VAT rate of 5% if the buyer presents to the seller written authorization from the authorities for applying the reduced VAT rate of 5% for the acquisition of the primary residential property/dwelling in Cyprus.

In addition, the definition of renovation has been expanded to include in the 5% rate transactions concerning repairing and improving a private home within three years after its first occupation.

Reduced VAT rate of 5% on the acquisition or construction of a primary residence/dwelling

Until 16 June 2023, 5% VAT applied on the value of 200 sq.m. of a primary residence/dwelling in Cyprus, with the value based on the purchase price or construction costs, provided that (i) the planning permit application was duly submitted no later than 31 October 2023 and (ii) the application for 5% eligibility is duly submitted within a period of three years from 16 June 2023 (i.e., no later than 15 June 2026).

In general, from 16 June 2023 onward, the following apply:

- 5% VAT on the whole value of the property if the primary residence/dwelling does not exceed 130 sq.m. and its total transaction value does not exceed EUR350,000
- 5% and 19% VAT rates charged proportionally if the primary residence/dwelling ranges in size from 130 sq.m. to 190 sq.m. and/or has a total transaction value ranging between EUR351,000 and EUR475,000
- 19% on the whole value of the property, if the primary residence/dwelling exceeds 190 sq.m. and/or its total transaction value is more than EUR475,000

Application of domestic reverse charge for supplies involving immovable property in Cyprus

As from January 2018, a recipient is liable to account for VAT under the reverse-charge mechanism, where a VAT-able supply of immovable property arises under loan restructuring and/or compulsory transfer to the lender. This is applicable for banking institutions and credit acquiring entities.

[1] This is subject to change within Q2 2025, given pending amending regulations subject to current consultation.

As from 20 August 2020, there is an extension to the applicability of the domestic reverse charge to transactions supplied by non-taxable persons (non-VAT registered), in relation to construction, modification, demolition, repair or maintenance of a property in the course of a business, with the recipient (as taxable person) having the obligation to self-account for VAT.

1.10 VAT on leasing of immovable property

As from 13 November 2017, 19% VAT is imposed on rental agreements for which the lease period starts on or after 13 November 2017, and the lessee is a taxable person with a VAT recoverability exceeding 90% in total outputs. The lessor has the right to opt out from taxation, treating such commercial leases as being VAT exempt (i.e., opts out). The opt-out is permanent and can only be withdrawn on the change of ownership. Notwithstanding, 19% VAT does not apply for public organizations since they are not considered taxable persons.

Residential rentals constitute VAT-exempt transactions.

As from 1 January 2019, a long-term lease of immovable property that effectively transfers the right to dispose of the property as owner to the lessee constitutes a supply of goods subject to 19% VAT (specific conditions apply).

2. Who is liable?

This is indicated throughout the chapter.

3. Rates

Transfer fees

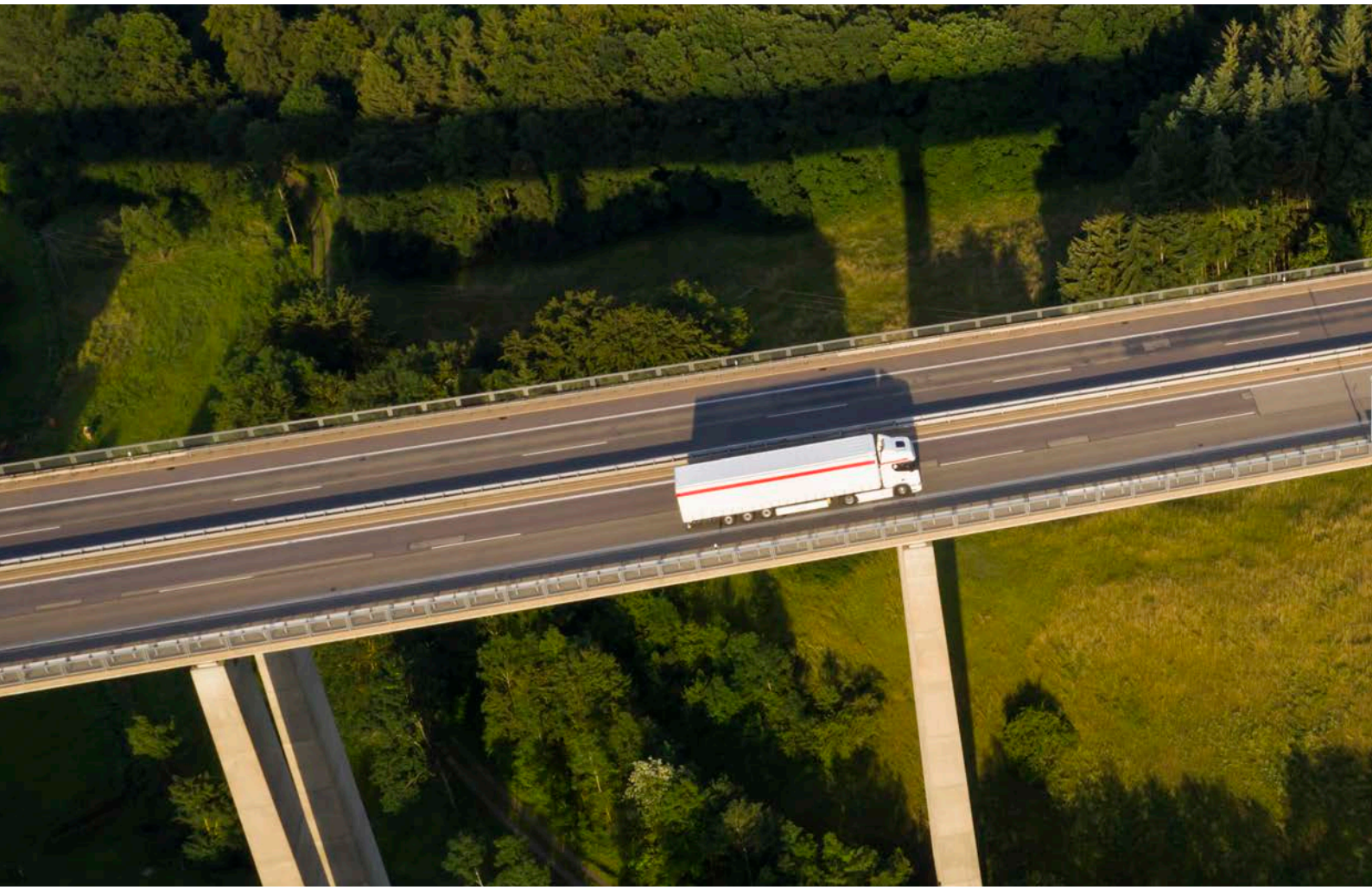
Transfer fees paid to the Department of Land and Surveys are as follows:

Value per property (EUR)	%	Fees	Accumulated fees (EUR)
0-85,000	3%	2,550	2,550
85,001-170,000	5%	4,250	6,800
170,001 and above	8%		

At the time of transfer of a title of land and buildings, land registration fees are payable by the transferee. These fees are payable on the assessed value of the land and buildings on the date of transfer or, if the property was sold at an earlier date and the sale contract has been filed with the Land Registry Office, on the assessed value on the date of the sale contract.

The land transfer fees shown above are reduced to 50% for any purchase of immovable property.

No transfer fees are payable when the immovable property being transferred is subject to VAT. In addition, as of 1 September 2018, no transfer fees will be payable in cases where the transfer of land is made through a "hire purchase" arrangement. This is on the proviso that the said transfer will be subject to VAT.



Stamp duty

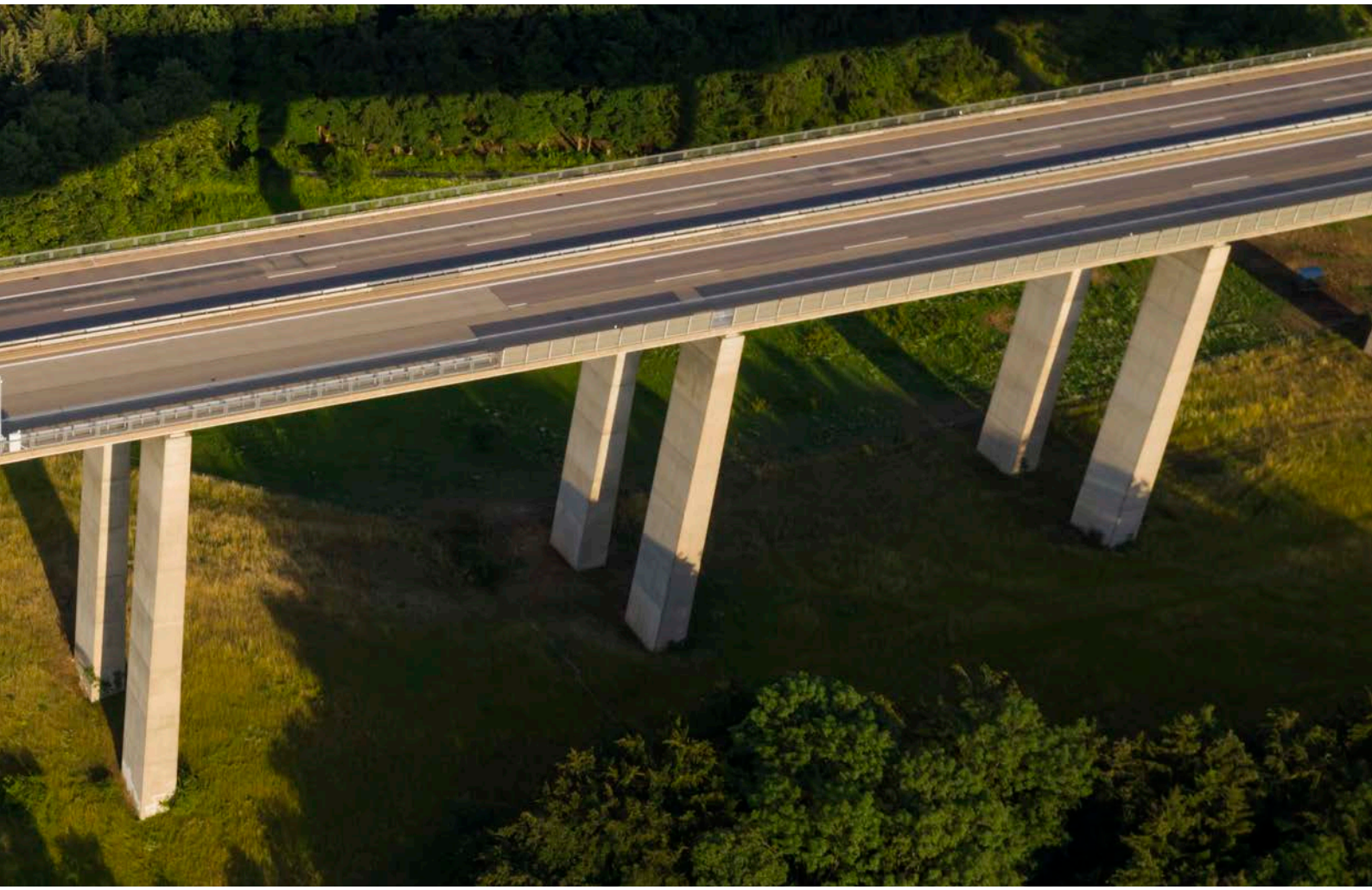
Stamp duty on contracts is charged as follows:

Receipts:

For amounts over EUR4	**7 cents**

Contracts:

Contract value (EUR)	Stamp duty (EUR)
1-5,000	Nil
5,001-170,000	1.50 for every 1,000 or part of 1,000
Over 170,000	2 for every 1,000 or part of 1,000 with a maximum levy of 20,000
Unspecified amount	35



Agreements entered into in the course of an approved company reorganization are exempt from stamp duty.

Immovable property tax

Please refer to Section 1.7.2 above.

PIT

Taxable income (EUR)	Tax rate	Amount of tax (EUR)	Accumulated tax fees (EUR)
0-19,500	0%	0	0
19,501-28,000	20%	1,700	1,700
28,001-36,300	25%	2,075	3,775
36,301-60,000	30%	7,110	10,885
60,001 and above	35%		

4. Exemptions and reliefs

4.1 Educational endowment

See Section 1.4.

4.2 Lump-sum payments

Any lump sum received by way of retiring gratuity, commutation of pension, death gratuity or as consolidated compensation for death or bodily injury is exempt from PIT and is not subject to any other taxes in Cyprus.

4.3 Inheritance

Income received from individuals by way of an inheritance is not subject to any taxation in Cyprus.

4.4 Expatriate allowances

Introduction

Article 8 (21) of the Income Tax Law (ITL) applies to remuneration from any employment exercised in Cyprus by an individual who was residing outside Cyprus before commencement of employment.

The individual is entitled to a 20% exemption on the lower of his or her total emoluments or EUR8,550 from employment in Cyprus. This exemption applies for five years commencing from 1 January of the year following commencement of employment (provided the employment started during or after 2012).

Following amendment of article 8(21) this exemption applies only for employment which commenced up until 26 July 2022.

Article 8 (21A) of the ITL applies to remuneration from an individual's first employment in Cyprus if the individual was employed outside of Cyprus by a nonresident employer for at least three consecutive years prior to the commencement of his or her employment in Cyprus.

The individual is entitled to a 20% exemption on the lower of his or her total emoluments or EUR8,550 from employment in Cyprus. This exemption is granted to an individual whose first employment in Cyprus commenced after 26 July 2022 and up until 2027, inclusive.

The exemption is granted for seven tax years following the year of employment in Cyprus.

Article 8 (23) of the ITL applies to remuneration exceeding EUR100,000 per annum from any employment in Cyprus by an individual who was a tax resident outside Cyprus prior to the commencement of employment.

The individual is entitled to a 50% exemption on his or her total remuneration from the employment in Cyprus.

The 50% exemption is not available to individuals whose employment commenced on or after 1 January 2015, if such individuals were:

- Tax residents of Cyprus for a period of three out of five years preceding the year of employment
- Tax residents of Cyprus in the year preceding the year of commencement of employment

Following amendment of Article 8(23), this exemption applies only for employment that commenced before 26 July 2022.

Article 8 (23A) of the ITL applies to remuneration from first employment in Cyprus by a person who was a resident outside Cyprus for at least 10 consecutive years prior to the commencement of employment in Cyprus.

The individual is entitled to a 50% exemption on his or her total remuneration if employment commenced during the period 1 January 2022–29 June 2023, and the emoluments exceeded EUR55,000 during the first or second year of employment in Cyprus. The exemption is granted for 17 tax years commencing as of the year of employment in Cyprus.

An individual whose employment commenced before 1 January 2022 and who was not a Cyprus tax resident for at least 10 consecutive years immediately before the commencement of employment in Cyprus may also be eligible to claim the 50% exemption during any tax year in which this remuneration exceeds EUR55,000 starting from tax year 2022 and until the completion of 17 consecutive tax years beginning from the tax year in which the employment commenced in Cyprus, provided one of the following conditions are met:

1) The individual has benefited from the 50% exemption under Article 8(23) and has been continuously employed in Cyprus from the year of commencement of employment until tax year 2021.
2) The individual's first employment in Cyprus commenced during the years 2016-2021 with remuneration exceeding EUR55,000 per year.
3) The individual's first employment in Cyprus commenced during the years 2016-2021 with remuneration not exceeding EUR55,000 per annum, but exceeded this amount per annum within six months from 26 July 2022.

Article 8 (23A) of the ITL, as amended on 30 June 2023, applies to remuneration from employment in Cyprus by a person who was a resident outside Cyprus for at least 15 consecutive years prior to the commencement of first employment in Cyprus.

The individual is entitled to a 50% exemption on his or her total remuneration of employment commenced after 1 January 2022 and the emoluments exceeded EUR55,000 during the first or second year following the date of first commencing employment in Cyprus. The exemption is granted for 17 tax years or until the repeal of the said subsection of the ITL, whichever occurs earlier, beginning the year of first employment commencement in Cyprus.

An individual whose employment commenced before 1 January 2022 and who was not a Cyprus tax resident for at least 15 consecutive years immediately before first commencing first employment in Cyprus, may also be eligible to claim the 50% exemption, during any tax year in which this remuneration exceeds EUR55,000, starting from the tax year 2022 until the completion of 17 consecutive tax years, or until the repeal of the relevant subsection of the ITL, whichever occurs earlier, beginning from the tax year in which the first employment commenced in Cyprus of a person, who had continuous employment in Cyprus from the year of commencement of first employment up until the tax year 2021, provided one of the following conditions is met:

1) The individual has benefited from the 50% exemption under Article 8(23) of the ITL.
2) The individual's first employment in Cyprus commenced during the years 2016-2021 with remuneration exceeding EUR55,000 per year.
3) The individual's first employment in Cyprus commenced during the years 2016-2021 with remuneration not exceeding EUR55,000 per annum, but exceeded this amount per annum within six months from 26 July 2022.

4.5 Gifts/donations of real estate property

The following are exempt from Cyprus CGT:

- Transfer by reason of death
- Gifts to relatives within the third degree of kindred
- Gift to a company of which the shareholders are and continue to be members of the disposer's family for five years after such gift
- Gift by a company, of which all the shareholders are members of the same family, to any of its shareholders when the property gifted had been acquired by the company as a gift; the property must remain in the hands of the donee for a period of at least three years

- Gift to the Republic or to a local authority for educational or other charitable purposes or to approved charitable institutions
- Exchange or sale in accordance with the Agricultural Land (Consolidation) Laws
- Exchange of properties when the values of the immovable properties being exchanged are equal
- Gain on disposal of shares that are listed on any recognized stock exchange
- Gains from transfer of property or shares in the course of an approved company reorganization

5. Filing procedures

Although there is no estate tax, since 1 January 2000, the executor/administrator of the estate of the deceased is required by law to submit to the tax authorities a statement of assets and liabilities of the deceased person within six months from the date of death.

6. Assessments and valuations

Not applicable.

7. Trusts, foundations and private purpose funds

7.1 Trusts

In 2012, the framework of the International Trust Law was modernized with the approval of the island's House of Representatives. The new features aim to adapt to the current and future needs of investors. According to Cyprus International Trust Law 20(I)/2012, as amended, the settlor of the trust shall not be resident for tax purposes of Cyprus during the year preceding the year in which the trust is formed. In addition, at least one of the trustees must be resident for tax purposes in Cyprus. The beneficiaries of the trust can be either resident or not for Cyprus tax purposes.

In principle, non-Cypriot tax-resident beneficiaries of a trust shall be subject to taxation in Cyprus only on income arising from sources in Cyprus. Conversely, Cypriot tax-resident beneficiaries shall be subject to tax in Cyprus on their worldwide income.

7.2 Private collective investment schemes

Private collective investment schemes (Alternative Investment Funds) are regulated in Cyprus by the Cyprus Securities and Exchange Commission. The income derived by a collective investment scheme of a corporate form is taxable unless an exemption applies under the law (e.g., dividend exemption for corporate (income) tax purposes). Collective investment schemes of a noncorporate form are treated as tax transparent. The distribution of profits to Cyprus tax residents and domiciled individuals is subject to a Special Defence Contribution tax at 17%. Furthermore, no withholding tax applies in cases involving a distribution of profits to nonresident investors or investors who, although tax residents, are not domiciled in Cyprus.

8. Grants

The income arising from educational grants is exempt from income tax. Other grants should generally not be subject to PIT in Cyprus unless they relate to revenue-nature trading activities, in which case they are treated as taxable.

9. Life insurance

Lump-sum life insurance payouts are exempt from income tax and are not subject to any other taxes in Cyprus. However, in case of cancellation of a life insurance policy within six years from the day of its issue, a percentage of the premiums, which were previously allowed, is taxable as follows:

Cancellation within three years	30%
Cancellation within four to six years	20%

10. Civil law on succession

As explained above, Cyprus does not levy any estate or inheritance taxes. Succession law issues have to be addressed by Cypriot legal counsel.

11. Estate tax treaties

Cyprus has not entered into any estate tax treaties.

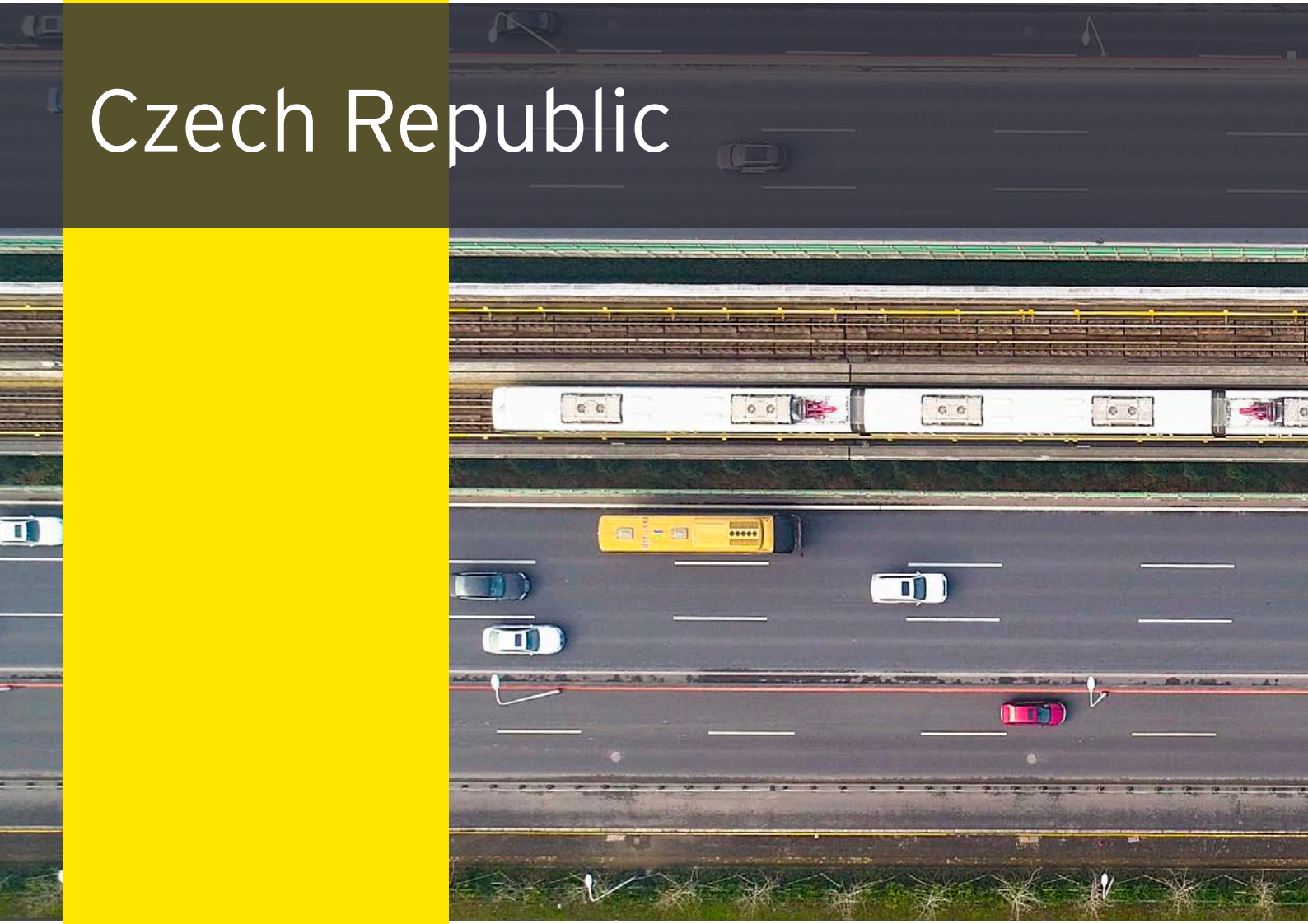
11.1 Double taxation treaties

Cyprus has concluded double taxation treaties with over 65 jurisdictions (including EU jurisdictions such as Austria, Belgium, Germany, Greece, Malta and the United Kingdom, and jurisdictions outside the EU, such as China, India, Ukraine and the United States).

More treaties are under negotiation or awaiting ratification.

Both in accordance with the domestic tax law (unilateral relief) as well as based on the provisions of a double tax treaty (bilateral relief), it is possible to claim double tax relief for any foreign tax suffered on income that is taxable in Cyprus, provided that the relevant documentation supporting the incurrence of foreign tax is available. Therefore, any foreign tax incurred is creditable against the resulting tax liability arising in Cyprus on the taxation of income (on which foreign tax was suffered). However, the foreign tax relief cannot exceed the resulting Cypriot tax liability. Any excess foreign tax credits are wasted (i.e., cannot be set off against other sources of income) and cannot be carried forward to future periods.

Czech Republic



EY contacts:

Prague

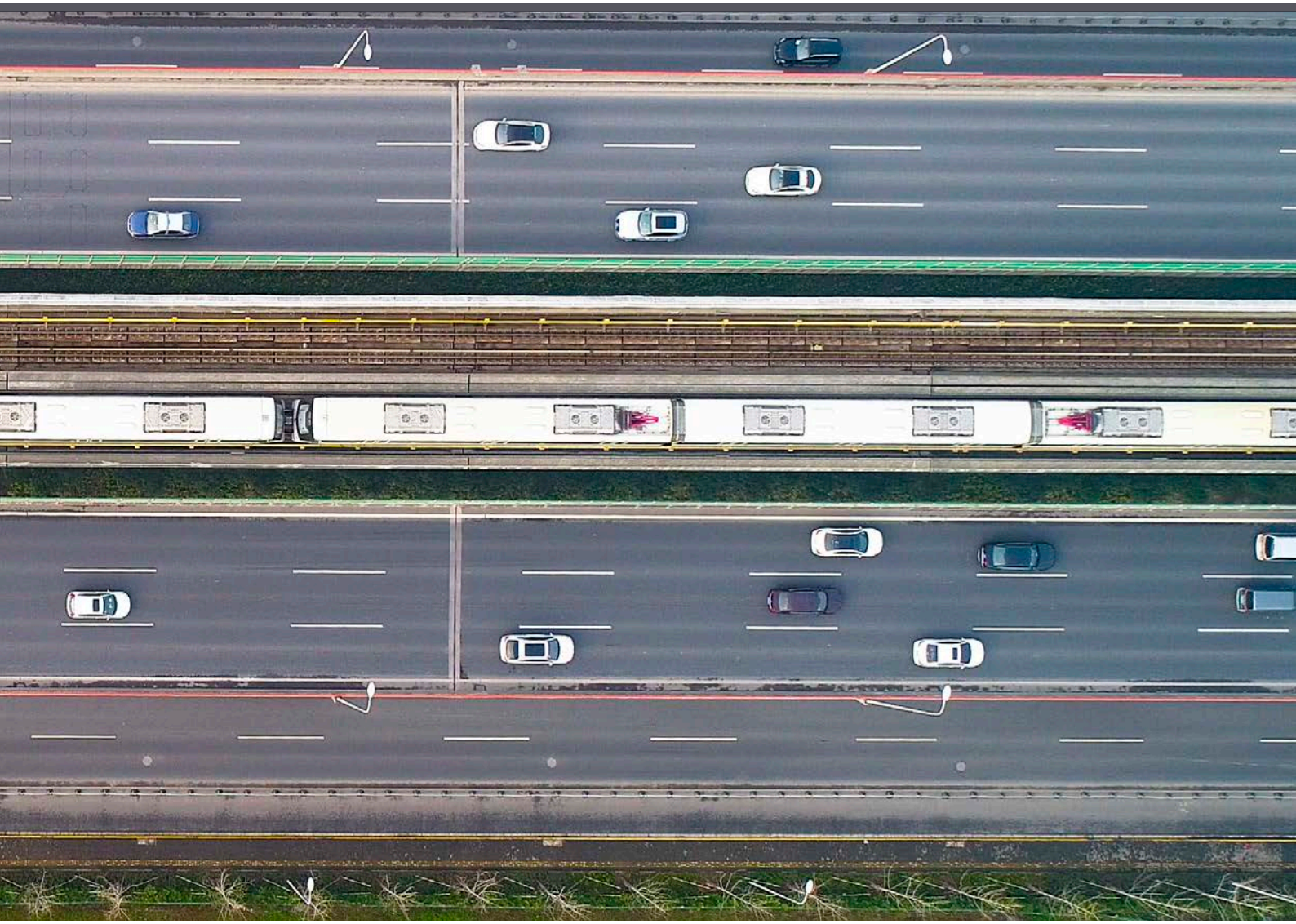
Ernst & Young, s.r.o.
Na Florenci 2116/15
Praha 1
11000
Czech Republic

Ondřej Polívka
ondrej.polivka@cz.ey.com
+420 225 335 595

Jana Wintrová
jana.wintrova@cz.ey.com
+420 225 335 248

1. Types of tax

The current relevant taxes in the Czech Republic's tax system include immovable property tax and income tax. Gift tax and inheritance tax have both been incorporated into the income tax as of 1 January 2014. The immovable property acquisition tax (former real estate transfer tax) has been abolished in September 2020 and the immovable property acquisition tax does not apply for the acquisitions where the deadline for filing the tax return expired on or after 31 March 2020 (i.e., the legal effect of the entry into the real estate cadastre took place in December 2019 or later). Under certain circumstances, transition of property can also be subject to personal income tax.



1.1 Inheritance tax

Inheritance tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been incorporated into the income tax.

Income from inheritance is fully tax-exempt for both legal and private persons as of 1 January 2014.

1.2 Gift tax

Gift tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been incorporated into the income tax.

Income tax is imposed on any transfer of property for no consideration. Gifts within a family may be exempt, but not reporting such income may result in massive penalties.

1.3 Real estate transfer tax

Real estate transfer tax as it appeared until December 2013 and subsequently immovable property acquisition tax no longer exist in the Czech Republic.

The immovable property acquisition tax was definitely abolished as of 26 September 2020, and the abolition applies retroactively to acquisitions for which the deadline for filing the tax return expired on or after 31 March 2020 (i.e., the legal effect of the entry into the real estate cadastre took place in December 2019 or later; in the case of real estate not entered in the real estate cadastre, the tax is retroactively abolished with respect to acquisitions made in December 2019 and later).

1.4 Immovable property tax

Generally, all immovable property situated in the Czech Republic is subject to immovable property tax. Currently, the tax rates depend on the type of property and its location. Therefore, this tax is commented on a limited basis only.

1.5 Selected personal income tax implications

Income from the sale of immovable property is subject to personal income tax.

The income from the sale is exempt from Czech personal income tax (PIT) if:

- The transferor used a house or a flat as a permanent residence for a period exceeding two years just prior to the sale
- The period between the acquisition and the sale of immovable property exceeds five years, in case of the immovable property acquired before 1 January 2021 or 10 years if the immovable property was acquired after 1 January 2021
- The income from the sale of property is used to acquire a new primary residence. Such exemption is subject to specific conditions and it is available only upon the reporting.

The above exemption does not apply if the property was part of business assets.

Income from the sale of securities and crypto assets is usually subject to Czech PIT. However, this income can be tax-exempt under the following conditions:

- Sale of securities acquired after 1 January 2014
  - Income from the sale of securities is tax-exempt if the total annual income of a taxpayer from the sale of securities (before deducting related expenses) does not exceed CZK100,000. Otherwise, the income from the sale of securities can be tax-exempt if the period between the acquisition and the sale exceeds three years. Income from the sale of other shares in a company shall be exempt if the period between the acquisition and the sale exceeds five years.
- Sale of securities acquired before 1 January 2014
  - For sales of securities acquired prior to 1 January 2014, exemption of annual income not exceeding CZK100,000 is applicable similarly as above. Otherwise, specific temporary provisions apply. Income from the sale of securities is tax-exempt if the period between the purchase and sale of securities exceeds six months, and the direct share of a party in the registered capital or voting rights of a company does not exceed 5% in the 24 months prior to sale. The tax treatment is not specified in the legislation regarding the sale of securities representing more than 5% in the registered capital or voting rights of a company. Nevertheless, based on current interpretation confirmed also by the General Finance Directorate, the income from the sale of such securities should be tax-exempt if the period between the acquisition and the sale exceeds three years. Income from the sale of other shares in a company is exempt provided the period between the acquisition and the sale exceeds five years.

- Income from the sale of crypto assets has usually been subject to personal income taxation in the Czech Republic. However, the amendment to the Income Tax Act, which came into effect on 15 February 2025, introduced the possibility of exempting income from the sale of crypto assets and stipulated conditions under which such exemption from Czech PIT can be applied. Similarly to the sale of securities, the exemption is available for annual income from the sale of crypto assets not exceeding CZK100,000, or if the period between the acquisition and the sale exceeds three years. The exemption is further subject to a specific limit applicable also to sale of securities and sale of other shares in a company.

Starting from 1 January 2025, a limit of CZK40 million applies to the exemption for income from the sale of securities, other shares in a company or crypto assets. This limit encompasses the total income from these sources combined. If the total amount of these exempt types of income exceeds CZK40 million in a given tax period, the corresponding portions of the income exceeding the limit will no longer be exempt from taxation.

Further, for the purpose of determining related tax base, in case of securities or shares acquired by the taxpayer before 31 December 2024, there is an option to reflect the market value of these assets as of 31 December 2024, instead of the expenses associated with their acquisition.

Considering the significant amounts involved, it is important to examine these situations on an individual basis.

1.6 Endowment tax

There is no endowment tax in the Czech Republic.

1.7 Transfer duty

There is no transfer duty tax in the Czech Republic.

1.8 Net wealth tax

There is no net wealth tax in the Czech Republic.

2. Who is liable?

Persons liable to tax, as well as the transactions subject to tax, are determined separately for each of the aforementioned taxes.

2.1 Inheritance tax

Inheritance tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been incorporated into the income tax.

The income from inheritance is fully tax-exempt for both legal and private persons as of 1 January 2014.

2.2 Gift tax

Gift tax as it appeared until December 2013 no longer exists in the Czech Republic. Instead, it has been incorporated into the income tax.

Generally, any person (private or legal) who acquires income of any kind other than by a transferor's death is liable to income tax.

2.3 Real estate transfer tax

Real estate transfer tax as it appeared until December 2013 no longer exists in the Czech Republic. The immovable property acquisition tax that replaced the former real estate transfer tax was abolished in September 2020.

2.4 Immovable property tax

In general, the owner of the real estate property is liable to immovable property tax (special provisions may apply in some cases).

2.5 Residency

Czech tax residents must declare their worldwide income in the Czech Republic irrespective of its source. Potential double taxation can be avoided based on the Czech tax law and respective double tax treaty, if in place. Czech tax nonresidents are liable only for their Czech-source income.

The tax residency of a person liable to immovable property tax is generally not relevant. The important factors are mainly the type and location of the property.

Special rules would apply if a particular double tax treaty included different provisions on this subject, which is rather unlikely.

3. Rates

3.1 Tax classes

Not applicable in the Czech Republic.

3.2 Gift tax and inheritance tax rates

Gift tax and inheritance tax as of 1 January 2014 ceased to exist in the Czech Republic and have been combined with income tax.

The income from inheritance is fully tax-exempt for both legal and private persons as of 1 January 2014.

For gifts, the tax base is determined by the gift value that is decreased by expenses incurred to obtain this income. The PIT rate of 15% applies on tax base not exceeding CZK1,676,052 per year, and the tax rate of 23% applies on tax base above this threshold, while the corporate income tax (CIT) flat rate is 21%.

Gifts received in connection with employment or business activities are taxed within the framework of the tax base from employment and business activities. As such, the standard employment and self-employment income tax and social security and health insurance rates apply.

3.3 Real estate transfer tax rate

The immovable property acquisition tax (former real estate acquisition tax) no longer exists in the Czech Republic.

3.4 Immovable property tax rate

The tax rates for immovable property tax depend on the type of immovable property and its location.

4. Exemptions and reliefs

Because the number and extent of exemptions and reliefs is broad, we recommend that the possibility of exemption be checked individually for the purpose of each transaction. Significant tax savings may be achieved by proper planning of certain transactions.

We summarize below the most important types of exemptions:

- Income from inheritance or legacy is fully exempt from personal as well as corporate taxation.
- Income related to gifts and other income obtained for no consideration is exempt from personal income tax if:
  1. The income is obtained from a first-degree or second-degree relative (e.g., sibling, uncle, aunt, nephew or niece, spouse, child's spouse, spouse's child, spouse's parents or parents' spouse)
  2. The income is obtained from a person with whom the taxpayer lived for at least one year prior to receiving the income in common household and for that reason, looked after the household or was supported by this person
  3. Income of value not exceeding CZK50,000 in total per year obtained from one individual is acquired on a casual basis

As of 1 January 2015, a new administrative rule has been introduced in the Czech Republic under which the individual who receives any income exempt from the PIT higher than CZK5 million is required to report the respective income to the Czech tax authorities.

The limit of CZK5 million needs to be considered for each transaction individually.

The deadline for the announcement is the same as the deadline for filing of the individual's tax return.

High penalties apply if the reporting obligation is not met.

- Income related to gifts and other income obtained for no consideration is exempt from corporate income tax if it is acquired by the following entities:
  1. Czech Republic or other EU Member States, Norway or Iceland
  2. Public-beneficial taxpayers with registered seats in the Czech Republic or other EU Member States established for the purpose of support and development of, for example, culture, education, health care, social services and sports

- Acquisition of immovable property is exempt from immovable property acquisition tax if acquired by the state of the Czech Republic or other EU Member States.
- For immovable property tax there are various specific exemptions (mainly in connection with property owned by the state of the Czech Republic).

5. Filing procedures

5.1 Personal income tax return

The filing deadline for PIT return is 1 April of the following year. If a tax return is filed by the individual electronically via special tool (Czech informative data box or using a certified electronic signature), it can be submitted with the Czech tax authorities by 1 May of the following year (instead of 1 April) without any sanctions. The deadline can be extended to 1 July based on a power of attorney granted to a certified tax advisor (automatic extension) or based on a special written request filed with the tax authorities (extension at discretion of the tax authorities). For Czech tax residents receiving foreign-source income, the deadline can be additionally extended until 1 November based on a written request (the extension at discretion of the tax authorities).

5.2 Corporate income tax return

The deadline for filing of a corporate income tax return is 1 April of the following year. If a tax return is filed by the entity electronically via special tool (Czech informative data box), it can be submitted with the Czech tax authorities by 1 May of the following year (instead of 1 April) without any sanctions. The deadline is automatically extended to 1 July for entities subject to a statutory audit or based on a power of attorney granted to a certified tax advisor. The extension may also be granted at the discretion of the tax authorities based on a special written request.

The income tax is generally payable within the tax return filing deadline. The tax authorities do not issue any tax assessment.

5.3 Immovable property acquisition tax return

The immovable property acquisition tax no longer exists in the Czech Republic.

5.4 Immovable property tax return

The immovable property tax return is due until 31 January unless the tax return was filed by the taxpayer in any previous year and, simultaneously, the situation affecting the tax determination remained unchanged.

The tax authorities assess the immovable property tax based on the immovable property tax return (considering the changes of tax rates). The immovable property tax is generally payable by 31 May. Tax higher than CZK5,000 can be settled in two equal installments, one by 31 May, the second one by 30 November.

6. Assessments and valuations

Inheritance, as well as most family gifts, is fully tax exempt in the Czech Republic. Nonexempt gifts and other transfers are generally subject to income tax.

7. Trusts, foundations and private purpose funds

The New Civil Code has introduced a trust fund (*svěřenský fond*) as of 1 January 2014. A trust fund can now be created to manage the property of its founder(s).

Trust funds are considered to be corporate income taxpayers. Transfer of assets into the trust fund from its founder are not subject to CIT; the gain generated by the trust fund is subject to 21% CIT. The payment from the trust fund is generally subject to withholding tax (at 15%) unless exempt from taxation as mentioned in Section 4. above, where the exemptions for defined family relationships apply and in the case that the founder of the trust can be qualified as a defined person.

8. Grants

Income from grants is generally subject to income tax. Tax exemptions may apply.

9. Life insurance

Inheritance, as well as most family gifts, is fully tax exempt in the Czech Republic. Other income from life insurance is generally subject to income tax, but tax exemptions may apply.

10. Civil law on succession

Inheritance, as well as most family gifts, is fully tax exempt in the Czech Republic.

11. Estate tax treaties

The Czech Republic concluded few estate tax treaties in the past (e.g., with Austria or Slovakia) covering the inheritance and gift tax. However, the inheritance and gift tax ceased to exist as of 1 January 2014 and the standard income tax applies unless the income is exempt from tax. Therefore, standard double taxation treaties concluded by the Czech Republic should be applicable. In those specific cases, like Austria and Slovakia, the original treaties could be considered, even though the principles are similar to standard double taxation treaties. As the local tax regimes of individual countries are often not compatible in this area, the application of a particular double taxation treaty should be reviewed on individual bases.

Denmark

EY contacts:

Copenhagen

EY
Dirch Passers Allé 36
Frederiksberg
Copenhagen
DK2000
Denmark

Nete B. Tinning
nete.b.tinning@dk.ey.com
+45 5388 7735

Lone Kristiansen
lone.kristiansen@dk.ey.com
+45 2529 4632

Majbritt Davidsen
majbritt.davidsen@dk.ey.com
+45 2529 6410

1. Types of tax

In Denmark, both gift and inheritance taxes are levied on transfer of assets at death or by gift. The tax is either 0%, 15% or 36.25%. However, gifts may be subject to ordinary income taxation of up to approximately 52.07% (2025). Furthermore, an update of the rules is currently under implementation, lowering the rate of gift and inheritance tax to 10%, if the gift or inheritance constitutes a transfer of an active family-owned businesses to the next generation. The rules are expected to be adopted at the end of March/ beginning of April 2025, most likely with retroactive effect from 1 October 2024.

1.1 Inheritance tax

Danish inheritance tax will, as a main rule, be due on the estate left by the deceased. The basis for the calculation of the inheritance tax is the total net value of assets that are passed on to heirs of the deceased.

The Danish inheritance tax consists of an estate tax of 15% imposed on the net value exceeding DKK346,000 (2025) of the estate of the deceased, together with an additional tax of 25% on the estate passed on to persons other than certain close relatives as defined by law. The maximum tax burden for the latter is, therefore, 36.25%, as the 15% estate tax is deducted before the 25% additional tax is calculated. However, no inheritance tax applies if the only heir is the spouse of the deceased.

Inheritance tax is levied when a person dies in connection with the completion of the estate. Taxation can be deferred if the surviving spouse chooses to retain undivided possession of the estate. In this case, the estate is taxed after the estate is transferred to the heirs of the first deceased spouse. The estate must be transferred to the heirs after the first deceased spouse if/when the surviving spouse dies or actively chooses to divide the estate of the first deceased later while the surviving spouse is still alive (e.g., in case the surviving spouse, who retained undivided possession of the estate, chooses to get married again).

Since 1 January 2020, the inheritance tax rate for successions in which family-owned businesses are transferred to the next generation has been reversed to 15%. The former government adopted legislation that gradually reduced the inheritance tax rate from 15% to 6% between 2016 and 2019. This legislation only affected inheritance when transferring active family-owned businesses to the next generation. Consequently, since 1 January 2020, any inheritance tax rate between close relatives changed to 15%. Instead, a changed deferral scheme, making it possible to divide payment of the inheritance tax over a 30-year period subject to interest, has been implemented. The reduced rates applicable prior to 2020 will however still be relevant for estates where the death occurred between 2016 and 2019 (both years included). The current government published a legislative proposal on 22 January 2025, once again reducing the inheritance tax rate in connection with transfers of active family-owned businesses to the next generation. Provided the bill is adopted (expected at the end of March/beginning of April 2025), the rate will be reduced from 15% to 10%, most likely with retroactive effect from 1 October 2024.

In 2024, the 25% additional inheritance tax for siblings was abolished, resulting in siblings only having to pay a 15% inheritance tax, similar to the tax rate for other close relatives as defined by the law. This change will take effect 1 January 2027. Hence, inheritance between siblings is still imposed with an additional 25% inheritance tax.

1.2 Gift tax

From a Danish perspective, a gift is normally considered granted when a living person promises to transfer asset(s) without full payment to another person. This is also the case even when the person giving the gift (the donor) reserves the right to make use of an asset or claims the right to the future income generated by the asset. Generally, gifts are liable to gift tax or ordinary income tax dependant on the one receiving the gift and his/her relation to the donor.

The gift tax is a proportional tax and is either 0% for gifts between spouses, 15% for gifts to close relatives (specified in Section 3.1) or 36.25% for gifts to stepparents and grandparents. Any other persons are subject to ordinary income tax on gifts at a progressive tax rate up to approximately 52.07% (2025).

Since 1 January 2020, the gift tax rate for successions in which family-owned businesses are transferred to the next generation has been reversed to 15%. The former government adopted legislation that gradually reduced the gift tax rate from 15% to 6% between 2016 and 2019. This legislation only affected gifts when transferring active family-owned businesses to the next generation. Consequently, on and since 1 January 2020, any gift tax rate between close relatives has changed to 15%. For gifts in the form of ownership in a family-owned active business, an implemented deferral scheme (with a possibility to pay the gift tax over a 30-year period) may be applicable, if the gift is granted in 2020 or later.

The current government published a legislative proposal on 22 January 2025, once again reducing the gift tax rate in connection with transfers of active family-owned businesses to the next generation. Provided the bill is adopted (expected at the end of March/beginning of April 2025), the rate will be reduced from 15% to 10%, most likely with effect from 1 October 2024.

Furthermore, the above bill proposes to include siblings in the definition "close relatives," resulting in siblings only having to pay a 15% gift tax, similar to the tax rate for other close relatives as defined by the law. Now gifts between siblings are taxed as other personal income (hence, up to 52.07%). Provided the bill is adopted, the change will take effect 1 January 2027.

1.3 Estates

In Denmark, no real estate transfer tax exists. Instead, a registration transfer duty (stamp duty) will be levied on transfers of real estate.

The stamp duty is a combination of variable and fixed duties and is, as of 1 January 2023, calculated as DKK1,850 + 0.6% (2025) of the transfer sum. However, if the transfer is between related parties, the latest public valuation of the estate may serve as the taxable basis.

If the real property is subject to gift tax, the variable part of the transfer duty (in whole or in part) can be deducted from the gift tax.

1.3.1 Exemption from the variable transfer duty

In the following situations, only the fixed stamp duty of DKK1,850 is applicable on transfer of real estate:

- A surviving spouse enters into the deceased spouse's rights and obligations (the spouse retains undivided possession of the estate). In cases where real estate is transferred between spouses as a result of a divorce or if the spouses transfer real estate from one to another and their respective newly obtained assets are covered by an agreement of complete separation of properties.
- The gift recipient is an approved charitable organization, a Danish national church or a recognized religious community in Denmark.

2. Who is liable?

2.1 Gift tax

Gift tax is applicable if either the gift donor or the recipient of the gift is domiciled in Denmark. Gifts in the form of real estate situated in Denmark and assets connected to a Danish permanent establishment (Danish *situs*) are however subject to Danish gift tax regardless of whether the gift donor or the recipient of the gift is domiciled in Denmark.

2.2 Inheritance tax

If the deceased person is domiciled in Denmark at the time of death, the market value of his or her worldwide net estate is subject to inheritance tax in Denmark. If the deceased person is domiciled outside of Denmark at the time of death, only the value of Danish real estate and assets with permanent establishment in Denmark (Danish *situs*) is subject to Danish inheritance tax, unless the administration of the estate has been referred to a Danish probate court.

3. Rates

3.1 Gift tax

Gift tax is 15% of the value of the gift exceeding DKK76,900 (2025) per year on gifts given to:

- Children, stepchildren and their children
- Deceased child's or stepchild's surviving spouse
- Parents
- Certain individuals sharing a common residence with the gift donor for at least two years prior to receiving the gift
- Foster children, if certain conditions are met
- From 1 January 2027, siblings will be included

Gifts to the aforementioned persons are not taxed if the value of the gift to each person is below DKK76,900 (2025) and the gift is given within one calendar year. Married couples (including registered partners) are not taxed on gifts to each other.

Gifts to a child's spouse or stepchild's spouse with a value of or below DKK26,900 (2025) within one calendar year are not taxed. Gifts with a value exceeding DKK26,900 are taxed at 15%.

Gifts to stepparents and grandparents are taxed at 36.25%. A limit for taxation of DKK76,900 (2025) applies here as well.

Gifts to persons besides the aforementioned are liable to ordinary income tax. The taxation is progressive up to approximately 52.07% (2025) depending on the receiver's taxable income. This applies to the donor's siblings until 1 January 2027. However, if the donor has no children, it may be possible to reduce the rate applied to 15% for siblings, children of the donor's siblings or grandchildren of the donor's siblings as well if the gift granted consists of an active business. Provided the bill mentioned in Section 1.2 is adopted, gift tax to siblings on active businesses will, however, be 10% as of 2027 – irrespective of whether the donor has any children, whereas the inheritance tax may also be reduced to 10% for children of the donor's siblings or grandchildren, if the donor does not have children.

The taxation of gifts can be summarized as follows:

Gift recipient	Tax	Lower limit for taxation (2025) (DKK)
Spouse	0%	N/A
Closely related	15%	DKK76,900
Children-in-law	15%	DKK26,900
Stepparents and grandparents	36.25%	DKK76,900
Distant relatives and others	Income tax up to approx. 52.07%	Depending on income

3.2 Inheritance tax

The inheritance tax is either 0%, 15% or 36.25% depending on the person inheriting the estate. A basic allowance of DKK346,000 (2025) per estate is deducted before the 15% estate tax is calculated.

The 15% estate tax of the total net estate value exceeding DKK346,000 (2025) is final if the estate is passed on to the following persons (close relatives):

- Children, stepchildren and their children
- Parents
- Child's or stepchild's not separated spouse
- Persons who have been living together with the deceased person for at least two years before the death
- Divorced spouse
- Foster children, if certain conditions are met
- From 1 January 2027, siblings will be included as well

If the value of the estate is below DKK346,000 (2025), there is no inheritance tax when the estate is transferred to the aforementioned persons.

If the estate is transferred to persons other than the aforementioned, the inheritance tax is 36.25%, consisting of the 15% estate tax and the 25% additional tax.

This applies to the deceased's siblings until 1 January 2027 (then a 15% rate will apply). However, if the deceased has no children, it may be possible to reduce the rate applied to 10% for children of the deceased's siblings or grandchildren of the deceased's siblings as if the inheritance consists of an active business. We refer to the end of Section 1.1 with regard to the potential future changes of the inheritance tax rate for siblings and for other closer relatives inheriting active businesses.

If the value of the estate exceeds DKK3,399,600(2025) partly excluding the value of the deceased person's own residence when transferred to an heir, the estate itself may be subject to ordinary estate income and capital gains tax.

The inheritance tax can be summarized as follows:

Heir	Inheritance tax	Lower limit for taxation (2025) (DKK)
Spouse	0%	N/A
Closely related	15%	DKK346,000
Distant relatives and others	36.25%	N/A
Organization of public utility and the state	0%	N/A
Other organizations	36.25%	N/A

4. Exemptions and reliefs

4.1 Gifts

No gift tax is applied on gifts between spouses.

For gifts to close relatives, gifts are, as a main rule, subject to 15% gift tax, but only above a tax-exempted limit.

For further details, please see Section 3.1.

4.2 Inheritance tax

There is no inheritance tax if the estate is passed on to a spouse, an organization of public utility or the state, which has been approved to receive inheritance, scholarships and insurance, etc., tax-free in accordance with the Danish Tax Assessment Act.

Foundations that accrue inheritance and legacies in the form of shares, etc., and at the same time takes i.e., foundations take over the deferred tax on the shares, etc., are also exempt from inheritance tax.

For further details, please see Section 3.2.

5. Filing procedures

5.1 Gifts

Gifts that are subject to gift tax must be reported to the tax authorities no later than 1 May in the year following the calendar year in which the gift was granted. The tax is due for payment at the time the gift is registered with the tax authorities (unless it is postponed). The gift recipient is liable for paying the tax. However, the gift donor is jointly liable for the payment of gift tax. Furthermore, the parties may agree that the donor pay the gift tax without this payment becoming a taxable gift itself.

If yearly gifts to persons are below the taxable limit (DKK74,100 and DKK25,900, as applicable (2024)), no filing requirements apply. The same applies to gifts between spouses (regardless of the value of the gift).

If a donor who is fully tax liable to Denmark grants a gift with a value exceeding DKK74,100 (2024) to a person who is not fully tax liable to Denmark and the abovementioned filing requirements do not apply to this gift, the donor will be obligated to file a different notification to the Danish tax authorities and inform the Danish tax authorities of the recipient's identity, the donor's relation to the recipient and the size of the gift.

Gifts that are subject to income taxation must be reported by the recipient on the income tax return for the year in which the gift was granted.

5.2 Inheritance tax

If the estate of the deceased person is privately administered, the heirs must file an opening statement showing the estate's assets and liabilities at the time of death no later than six months after the estate is handed over for private administration.

Within 15 months after the time of death, the heirs must make a final estate inventory showing the estate's assets, liabilities, revenues and expenses, including the distribution between the legatees and heirs. At the same time, a tax return needs to be filed, provided the estate is taxable (value of the assets or net assets above DKK3,399,600). If the deceased is a surviving spouse who has retained undivided possession of the estate after his/her previously deceased spouse, the threshold is only applied to the longest-living spouse's part of the complete undivided estate.

A copy of the estate inventory signed by all the heirs must be sent to the local Danish tax authority (Skattestyrelsen) and the probate court.

Formal filing requirements may vary depending on the type of administration chosen for the estate and the tax liability.

6. Assessments and valuations

The calculation of gift and inheritance tax is based on the market value. Certain standardized and favorable guidelines may be used to set the market value for real property and unlisted shares.

The gift value is determined as the market value at the time of the receipt of the gift.

The estate's assets and liabilities are assessed according to the market value at the time they are transferred to the heirs. Expenses related to the administration of an estate (e.g., legal fees) can be deducted on the basis for calculation of the inheritance tax.

7. Trusts, foundations and private purpose funds

Certain charitable institutions, funds and religious communities are exempt from inheritance tax. Every year, the Danish tax authority publishes a list with the exempt institutions.

Gifts to charitable institutions are deductible in the tax return of the gift donor. The maximum deductible amount per year is DKK19,000 (2025). The deduction is conditional upon the gift recipient reporting the gift and the identification of the donor to the Danish tax authority.

Trusts (as defined in, e.g., common law countries) are not recognized in Denmark as a separate juristic or tax-liable entity.

8. Grants

This is not applicable.

9. Life insurance

If the deceased person had life insurance, the insured sum is paid directly to the person who is listed as the beneficiary. The insured sum is not included in the estate unless no beneficiary exists or the estate is actively chosen as the beneficiary.

If the surviving spouse of the deceased person receives the insured sum, no estate tax has to be paid.

If anyone other than the surviving spouse is to receive the insured sum, the sum is subject to estate tax, unless inheritance tax is levied, ref. Section 2.2. The rate of the inheritance tax depends on how closely related the beneficiary is to the deceased person (see above).

The lower limit for taxation of DKK346,000 (2025) is not applicable on payments from life insurance that has been paid directly from the insurance company to the heirs.

10. Civil law on succession

10.1 Distribution of the estate to the heirs

When a person dies, the estate is distributed to the heirs according to specific rules in the Inheritance Act. The distribution of the inheritance depends on the deceased person's family relations.

The estate to be divided between the heirs basically consists of the deceased's assets minus his/her liabilities. If the deceased was married at the time of death and the spouses owned any joint/community property,[1] only the deceased's portion of the joint property, together with his/her separate property, if any, will become subject to inheritance. The remaining part of the joint property belongs to the surviving spouse.

According to the Inheritance Act, the estate will be distributed as follows if the deceased person has made no other decision by will:

- If the deceased person leaves both a spouse and children, the estate must be divided between them. The spouse inherits half of the estate of the deceased person, while the rest of the estate is divided equally among the children. The surviving spouse can usually choose to retain undivided possession of the estate. In this case, the children will inherit when the surviving spouse dies or remarries.
- If the deceased person does not have any surviving children, grandchildren or other lineal descendants, the spouse will inherit the entire estate.
- If a person dies unmarried but leaves behind children, then the estate will be divided equally between the children. If a child is dead, the child's part of the estate will go to his or her lineal descendants.
- If there is no spouse, children, grandchildren or great-grandchildren, the estate will be divided equally between the deceased person's parents. If they are dead, their part will go to their lineal descendants, if there are any.

[1] Joint property includes all the assets each of the spouses owns at the time of the date of death, unless the assets have been made separate property by the establishment of a prenuptial agreement or by gift or will determined by a third party. The positive net assets of the deceased and the deceased's spouse (assets minus liabilities) are added together. The spouse then receives half of the total net assets. The other half of the parties' net assets will become subject to inheritance. If the deceased has net assets of DKK2 million, while the spouse has net assets of DKK1 million, the spouse will receive DKK1.5 million in the estate in advance. The inheritance will also amount to DKK1.5 million. If the deceased has not made a will, the spouse will then inherit DKK750,000, while the remaining DKK750,000 will be divided equally among the deceased's children.

- If there are no parents, brother or sister, or children of a brother or sister, the estate will be divided equally between the grandparents.
- If there are no grandparents and they leave no children, the estate will go to the state.
- If the deceased person has made a will, this may change the distribution of the estate.

10.2 Forced heirship

The Danish Inheritance Act contains provisions that limit a person's right to dispose of an estate by will to a certain extent.

The limitation regards one-quarter of a person's estate (i.e., a person can only dispose of three-quarters of an estate by will if the deceased leaves a spouse or children). This one-quarter may be reduced to DKK1.51 million (2025) per child.

If this statutory limit is observed, a person may freely dispose of his or her assets by will.

10.3 Matrimonial regimes and civil partnerships

Registered partnerships are treated the same way as matrimonial regimes.

By marriage, the spouse gets community property unless he or she enters a separate property settlement. Whether an asset is part of the community property or separate property is significant when a married person dies or if the marriage is dissolved.

When the first spouse dies, the separate property, as a general rule, must be distributed to the heirs, while the distribution of the assets included in the community property can be either retained by the surviving spouse or passed on to the heirs.

10.4 Probate

When a person dies, the probate court convenes the deceased person's closest heirs for a meeting to determine the administration of the estate after the deceased person. The administration may be private or public. Public administration is enforced in certain situations (e.g., if one of the heirs requests it or if the deceased person has determined it by will).

11. Estate tax treaties

11.1 Unilateral rules

Inheritance tax and gift tax paid to a foreign state, Greenland or the Faroe Islands on assets located outside Denmark can be deducted from the Danish inheritance and gift tax. The deduction cannot exceed the Danish inheritance or gift tax on the assets.

Finland

EY contacts:

Helsinki

EY
Korkeavuorenkatu 34–35
Helsinki
FI00100
Finland

Hanna-Leena Rissanen
hanna-leena.rissanen@fi.ey.com
+358 45 260 5946

Mika Kankare
mika.kankare@fi.ey.com
+358 40 550 1072

1. Types of tax

Although there is only one tax that is based on the Inheritance and Gift Tax Act (1940), the tax has two clearly distinguishable tax objectives. For this reason, the taxation of inheritances and bequests and the taxation of gifts are treated separately in this section and the two names for the taxes are used accordingly. Inheritance tax and gift tax are imposed solely by the state.

1.1 Inheritance tax

Scope of application

Inheritance tax is levied on the individual share of each beneficiary and not on the estate of the deceased as a whole. Inheritance tax is levied on the following property received as an inheritance or a bequest:

- Any property if the deceased or the person who receives the property as an inheritance or a bequest was a resident in Finland at the time of death

- Real property situated in Finland and shares or other rights in a corporate body where more than 50% of the total gross assets of that corporate body consists of real property situated in Finland

Insurance claims paid out to a beneficiary or estate under a personal insurance scheme in the event of the death of the benefactor, as well as any similar economic subsidy paid by the government, a municipality or any other statutory body or a pension institution, are subject to inheritance tax only if they are not subject to income tax.

No inheritance tax is levied on the value of a right to annual income or on the value of a usufruct.

No inheritance tax is payable when, on being dissolved, the property of an association is transferred in accordance with its articles of association. If the inheritance tax should be levied on the same property on the basis of two or more deaths that have occurred within two years, the inheritance tax is levied only once and on the basis of the most remote relationship.

The liability to pay inheritance tax begins with the death of the decedent, except in situations where the property comes to the heir or other beneficiary later than the death of the deceased.

When it comes to generational transfer situations, inheritance tax relief can be granted under the same conditions as a gift tax relief described in Section 1.2.

Credit for foreign inheritance tax

To avoid double taxation, the tax paid on an inheritance by a Finnish resident to a foreign state on property mentioned earlier in this section is credited against the inheritance tax due in Finland on the same property.

The maximum credit is the lesser of either the amount of foreign inheritance tax or an amount based on the following calculation (ordinary credit):

$$\frac{\text{Value of foreign property x Finnish inheritance tax}}{\text{Value of total property (including foreign property)}}$$

Finland does not eliminate double taxation with respect to immovable property situated in Finland or shares or other rights in a corporate entity if more than 50% of the total gross assets of the company consists of real property situated in Finland. In exceptional cases, a taxpayer may be exempted totally or partly from inheritance or gift tax liability if it is evident that the payment would be unreasonable.

1.2 Gift tax

A gift tax is levied on the following types of property received as a gift:

- Any property if the donor or the beneficiary was a resident in Finland at the time the gift was made
- Real property situated in Finland and shares or other rights in a corporate body where more than 50% of the total gross assets of that corporate body consists of real property situated in Finland

No gift tax is levied on ordinary household effects intended for the beneficiary's (or his or her family's) personal use and with a maximum value of EUR5,000, or on amounts used by a person for another person's (beneficiary's) education or maintenance when that other person does not have the possibility to use the donated amount for other purposes and on other gifts whose value is less than EUR5,000. If a person receives such gifts from the same donor within a period of three years, the gifts are aggregated for the purpose of computing the EUR5,000 limit and the gift tax is imposed on the exceeding amount. If a person has received one or more taxable gifts from the same donor within three years before their tax liability has begun, these gifts must be considered when the tax is calculated. The gift tax paid earlier is credited in such cases.

The gift tax is similar to the inheritance tax in the following areas:

- Credit for foreign gift tax
- Exempt persons
- The valuation of property

The liability to pay gift tax begins when the beneficiary takes possession of the gift. In cases where the financial consideration in a contract of sale or exchange does not exceed three-quarters of the current price of the property sold or exchanged, the difference between the current price and the consideration is regarded as a gift.

Gift-like sales

In a gift-like sale, the selling price is below the fair market value (FMV) of the assets but exceeds 75% of the FMV. In this case, the difference between the FMV and the compensation does not form a taxable gift.

Partial or full relief from gift tax

A partial gift tax relief for a generational transfer of a company may be granted if all the following conditions apply to a situation:

1. The gift subject to tax includes a company or a part of it. A company must have business activity and at least 10% of the company shares must be transferred.

2. The beneficiary will continue to conduct the business in the same company that the beneficiary received as a gift.
3. The company accounts for more than EUR850 of gift tax.

Gift tax relief can also be granted in full if the aforementioned conditions are met and the beneficiary pays consideration of more than 50% of the company's FMV. If partial tax relief is granted, it is possible to obtain an interest-free extension for the payment of the gift tax.

If the gift tax obligation has been partially or fully relieved and the taxpayer transfers the majority of the company before five years of the delivery of gift tax, the tax will be executed with a 20% raise and the relief of the payment time will be canceled. Transferring refers to voluntary transfer of the shares and the majority refers to over 50% of the shares. If the transfer will be conducted in accordance with a corporate transaction, the tax relief must be evaluated separately.

1.3 Real estate transfer tax

Transfer tax on real estate is 3% of the purchase price or value of other remuneration. The tax must be paid before seeking legal confirmation of possession or registration of the tenancy, which must be sought within six months of making said transfer contract. The National Land Survey of Finland will confirm possession. Applicants must present a receipt, or other documentation, to prove that the payment of transfer tax has occurred.

When real properties are exchanged, this constitutes two separate transfers, which obliges both transferees to pay the transfer tax relating to the received acquisition.

If legal confirmation of possession and registration is not sought within six months of the transfer in question, the tax will be increased by 20% for each six-month period of delay. However, the maximum total increase is 100%.

1.4 Endowment tax

In general, trusts are not recognized in the Finnish taxation system because there isn't any specific endowment tax; assets moved into trusts are taxed according to the regulations concerning gift tax (see Sections 1.2 and 7).

1.5 Securities transfer tax

Transfer tax is 1.5% of the purchase price or other remuneration of the transfer of securities.

The buyer shall pay the transfer tax and report the procedure to the tax office of his or her domicile. The tax and the report shall be made within two months of signing the transfer agreement. To report the transfer, one must use the form supplied by the tax administration. The buyer must also present a receipt of payment, as well as the conveyance or other agreement of transfer.

When trading bonds and securities, two transfers take place. Both acquiring parties must pay transfer tax and report the transfer.

1.6 Net wealth tax

Net wealth tax is no longer a part of the Finnish taxation system. Despite that, a person's net wealth with certain limitations shall be declared to tax authorities in connection with filing an annual tax return.

2. Who is liable?

Finland levies inheritance tax on the estate of a deceased person separately on each beneficiary in respect of his or her share of the estate. Similarly, Finland levies gift tax on each donee.

2.1 Residency

Inheritance or gift tax must be paid if the deceased person or donor or the beneficiary or donee was a resident of Finland at the time of death or donation. The tax liability covers all immovable and movable property situated in Finland or abroad. Inheritance or gift tax must be paid for immovable property situated in Finland and shares in a company if more than 50% of its assets comprise immovable property situated in Finland, even if neither the deceased donor nor the beneficiary donee was a resident of Finland. A double taxation agreement may limit Finland's taxation rights (see Section 11.1).

An individual is a resident of Finland if his or her main residence is in Finland. The sole fact that an individual stays in Finland for a longer period does not constitute residence for inheritance and gift tax purposes (as it does for income tax purposes). Similarly, there are the same prerequisites for nationals and non-nationals as there are for income tax purposes. A Finnish national who recently moved abroad may be a Finnish resident for income tax purposes, but not for inheritance and gift tax purposes.

2.2 Domicile

Certain special groups of individuals are liable to pay inheritance or gift tax only on real property situated in Finland and on shares or other rights in a corporate entity if more than 50% of the total gross assets of the company consist of real property situated in Finland. This special scope of tax liability applies to persons serving in Finland at foreign diplomatic missions, other similar representations or consular posts headed by career consular officers, as well as members of their families and their private servants who are not Finnish nationals. The same scope applies to persons serving in Finland as employees of the United Nations (UN), its specialized agencies or the International Atomic Energy Agency (IAEA), as well as members of their families and their private servants who are not Finnish nationals.

3. Rates

Rates of inheritance and gift tax are determined on the basis of two classes of relationships between the beneficiary (the donee) and the deceased (the donor).

Tax class 1

Spouses, direct heirs in an ascending or descending line and spouses' direct heirs in a descending line are taxed according to tax class 1. Also, fiancé(e)s and cohabiting partners (within the meaning of the Act on the Dissolution of the Cohabiting Couples' Joint Household) are taxed according to tax class 1 up to a certain amount.

The concept of direct heirs in an ascending or descending line includes persons in adoptive relationships and foster children in certain cases. Class 1 rates apply also to spouses if the provisions of the Income Tax Act concerning spouses are applicable (meaning persons, who have lived in marriage like circumstances during the tax year and who have previously been married to each other or who have or have had a child together).

Tax class 2

All other cases (relatives or nonrelatives) that do not fall under class 1.

Taxable inheritance and gift (EUR)	Basic tax amount (EUR)	Rate within brackets
Rates of inheritance tax for class 1		
20,000-40,000	100	7%
40,000-60,000	1,500	10%
60,000-200,000	3,500	13%
200,000-1,000,000	21,700	16%
1,000,000 and above	149,700	19%
Rates of inheritance tax for class 2 (EUR)		
20,000-40,000	100	19%
40,000-60,000	3,900	25%
60,000-200,000	8,900	29%
200,000-1,000,000	49,500	31%
1,000,000 and above	297,500	33%
Rates of gift tax for class 1 (EUR)		
5,000-25,000	100	8%
25,000-55,000	1,700	10%
55,000-200,000	4,700	12%
200,000-1,000,000	22,100	15%
1,000,000 and above	142,100	17%
Rates of gift tax for class 2 (EUR)		
5,000-25,000	100	19%
25,000-55,000	3,900	25%
55,000-200,000	11,400	29%
200,000-1,000,000	53,450	31%
1,000,000 and above	301,450	33%

4. Exemptions and reliefs

The following persons are exempt from inheritance tax when they receive an inheritance or a bequest:

- The state and its institutions, municipalities, joint municipal authorities, religious communities and nonprofit-making organizations
- Persons serving in Finland at foreign diplomatic missions, other similar representations or consular posts headed by career consular officers and persons serving in Finland as employees of the UN, its specialized agencies or the IAEA, as well as members of their families and their private servants who are not Finnish nationals. However, these persons are liable to pay inheritance tax on real property situated in Finland and shares or other rights in a corporate body in which more than 50% of the total gross assets of the company consist of real property situated in Finland (see Section 2)

No inheritance tax is payable when a widower or widow is entitled by law to retain the undistributed estate of the deceased spouse in his or her possession.

Inheritance tax is not levied on the ordinary household effects used by the deceased or his or her family for the part that does not exceed EUR4,000.

In addition, the spouse or any person to whom the provisions of the Income Tax Act concerning spouses are applicable for the year of death is entitled to a deduction of EUR90,000 from the chargeable share of the inheritance (spouse allowance). The provisions of the Income Tax Act relating to spouses do not apply in instances in which the spouses have lived the whole tax year apart or have moved to separate dwellings during the tax year in order to live permanently apart. The same applies in the case of a married couple when either of the spouses is a nonresident.

Cohabiting couples, for the purposes of income taxation, are considered spouses if they have been married to each other previously or if they have or had a child together.

Heirs in direct descending line (including adopted persons) who are under 18 years of age and entitled to inherit the deceased person's estate at the time of the person's death are entitled to a deduction of EUR60,000 (minority allowance). If the value of an heir's share of the estate or the same value after deducting the spouse allowance and minority allowance is less than EUR20,000, it is exempt from tax.

5. Filing procedures

Inheritance taxation is based on an estate inventory deed or a tax return. The estate inventory deed must be filed in the tax office of the residence of the deceased within three months of the death. Finnish resident beneficiaries must file a tax return if the deceased person was not a resident of Finland at the time of death. The person who possesses the property in Finland must file the tax return if no beneficiary is a resident of Finland. The tax return of the estate must be filed within three months of the death in the Helsinki area tax office.

All assets and debts of the deceased should be itemized in the estate inventory deed. The tax authorities may impose punitive sanctions to the estate on income that the settlor has not reported in Finland.

With regard to gifts, the beneficiary prepares and signs the gift tax return. The gift tax return must be filed in the tax office of the residence of the donor within three months after the gift is received. If the donor does not live in Finland, the tax return is to be filed in the Helsinki area tax office. Should the gift be of less than EUR5,000 in value, a tax return is not needed, unless specifically required by the tax office.

6. Assessments and valuations

The basis of inheritance tax is the current value of the property at the moment of a taxable event. The current value means the probable alienation price. The value of a gift that must be taken into account in the distribution of an inheritance is included in the value subject to inheritance tax. The value of any other gift received during the last three years before the death of the benefactor is also included in the value subject to inheritance tax under the condition that it is not gift tax-exempted as:

- Ordinary household effects intended for the beneficiary's (or his or her family's) personal use and with a maximum value of EUR5,000
  Or
- An amount used by a person for another person's (beneficiary's) education or maintenance in such a way that the other person does not have the possibility to use the donated amount for other purposes

Previously paid gift tax is deducted from inheritance tax in these cases.

Deductions are given for previously paid transfer tax when a real property's registration title's gift tax was earlier sought and not deducted. The part of gift tax that exceeds inheritance tax is not refunded. Deductions are allowed for all debts, including taxes relating to the lifetime of the deceased, but excluding inheritance tax. It also includes funeral and

tombstone costs and expenses incurred in drawing up an estate inventory, up to reasonable amounts. Expenses incurred in distributing estates are not allowed as deductions.

7. Trusts, foundations and private purpose funds

Status as a legal person for tax purposes

Trust institutions are not recognized in the Finnish tax or civil law. In a tax practice, trusts have usually been compared to the Finnish foundations and have been taxed as separate entities. However, recognizing a trust as a separate entity for tax purposes in Finland is open to interpretation. The decision-making is based on the case-specific circumstances.

If the trust is treated as a separate legal person, the beneficiaries are taxed on distributions made by the trust. Please note that if Finnish controlled foreign company legislation applies, the annual income of the trust would be taxed as the beneficiaries' income.

Inheritance taxation

There are very few legal cases and non-established tax practices in Finland with regard to inheritance and gift taxation, as well as income taxation, when a trust is involved.

The trust's assets received by the heirs after the settlor has passed away may be regarded as part of the settlor's estate and thus subject to inheritance taxation in Finland in the hands of the beneficiaries. The inherited right to the yield of a trust (as beneficiaries) may be exempted from tax in Finland. Even if a part of the foundation's assets is not distributed to the beneficiaries, the total amount of assets in the trust may be considered subject to inheritance tax, depending on the rules of the trust and the circumstances.

The inheritance taxation is not entirely clear on whether the beneficiaries can receive the trust's assets under certain suspensive conditions. While inheritance taxation may occur if the beneficiaries receive the assets in their possession, there is also a tax practice against this position.

Income received from a trust

If the acquisition is not based on the death of the settlor, the income and assets received by the beneficiaries from the trust may be regarded as a gift from the settlor. This is because the tax authorities may consider the assets as received directly from the settlor and not from the trust as a separate entity.

If the beneficiaries are deemed to receive a gift, they may be regarded as having received the gift from the settlor already when the settlor set up the trust. However, if the beneficiaries did not have any rights or do not have any control over the assets (or income from the trust), they may be taxed once they have received the assets.

When beneficiaries receive income from a trust's assets, it is considered their personal capital income because the assets in the trust have accrued income.

Taxation as a separate legal entity

Whether a trust is treated as a separate legal person or not depends entirely on the discretion of the Finnish tax authorities.

If a trust is not treated as a separate entity, however, all income earned by the trust is taxed in the hands of the beneficiaries as if they had received the income directly.

If the trust is treated as a separate legal person and is a resident in Finland for tax purposes (i.e., registered or otherwise established under the domestic law of Finland (for example, a corporate entity that has its place of management in Finland does not make it Finnish)), it has unlimited tax liability in Finland and is thus subject to tax for its global income or both for Finnish and foreign-source income. A legal person subject to unlimited tax liability is liable to file a tax return for his or her global income. The tax treatment of foreign-source income largely corresponds to the tax treatment of the Finnish-source income. However, some foreign-source income items are taxed differently. Certain foreign-source items may be tax-exempt because of a specific domestic tax law, European Union (EU) tax law or tax treaty provision.

Legal persons subject to limited tax liability (legal persons registered abroad or otherwise established under foreign law — foreign legal persons) are subject to taxes in Finland only for Finnish-source income and need to file a tax return for their Finnish-source income. The Income Tax Act includes an exemplary list of the items regarded to be Finnish-source. Certain items may be tax-exempt according to a special provision, even though they are Finnish-source items. For example, Finnish-source interest income of a nonresident is largely tax-exempt.

Taxation as the estate's or beneficiaries' income

Estates are taxed on income as a separate entity until the distribution of the estate. Beneficiary income from trusts may be taxed as the estate's income if the trust is not recognized as a separate entity for tax purposes. The estate remains until all assets of the estate have been distributed to the beneficiaries. Finland does not tax the foreign-source dividends of nonresidents.

Income taxation after the dissolution of the trust

When the trust is dissolved and all assets are distributed to the beneficiaries, capital gains tax applies if the trust is regarded as a separate legal entity. If a trust is not taxed as a separate entity, dissolution should not have any income tax effect. The estate should declare these assets on its tax return for as long as the estate is not distributed to the beneficiaries.

8. Grants

Grants are not taxable income if they are:

- Scholarships or other grants given for studies or scientific research or the arts
- Awards given for the benefit of scientific work, work in the arts or work for the public good
- Pensions or family pensions given by the state before 1 January 1984, for work mentioned in Sections 1 and 2
- Grants given for professional athletes with the purpose of encouraging training or coaching

Grants are given by public sector entities, such as the state, the municipality or the Nordic Council. (Note: The Nordic Council was formed in 1952. The Council has 87 elected members from Denmark, Finland, Iceland, Norway, Sweden, the Faroe Islands, Greenland and Åland. For more information, visit norden.org/en/nordic-council.)

Due to the university law (558/2009), as of 2010, universities are no longer seen as public entities and are therefore not treated as public entities in regard to taxation. Grants given by foreign states and public entities in foreign states are not subject to the above-mentioned regulation and are therefore taxed as income.

If a grant is paid by the employer and is regarded as compensation for work, it is considered taxable income, even if the purpose of the grant is one of those mentioned above.

A grant given by a private person is seen as taxable income when the amount, combined with the grants given by public entities or the Nordic Council, student grants and other grants, exceeds the annual amount of the artist grant given by the state. In 2023, the artist grant is EUR25,547.52, and in 2024, it is EUR26,269.46.

9. Life insurance

Paid indemnities from life insurance must be listed and accounted for in the estate inventory.

If the estate inventory is made before such payment, the beneficiary may report the indemnity to the tax authorities. Insurance companies are also obliged to inform the tax authorities of paid indemnities.

If the beneficiary is defined in the life insurance agreement, the payment does not belong to the estate. If the beneficiary is not stated in the agreement, then the payment belongs to the estate. This has led to most insurance policies being written with the inclusion of a predetermined beneficiary.

Inheritance tax must be paid if the beneficiary is the estate or another determined beneficiary. The part of the indemnity that is accounted for as income under income taxation is free from inheritance tax.

The beneficiary can either be listed as a specific beneficiary or a general beneficiary in the insurance agreement. If the beneficiary is a specific person, it means that the indemnity goes straight to him or her. If the beneficiary is generated using a more flexible term, such as "next-of-kin," then it is up to the estate to determine the beneficiaries.

If the beneficiary is not a relative (for example, a friend), the entire indemnity is considered to be taxable income and no inheritance tax is imposed.

10. Civil law on succession

10.1 Estate planning

It is important to calculate whether it is more tax efficient to give a gift or inheritance advance, as this varies from one case to another.

It is most common to give gifts to one's children, and these gifts are generally considered to be an inheritance advance, unless it is stated otherwise in the deed of the gift. An inheritance advance is always added to the deceased's assets, whereas a gift is only considered part of the estate if the gift is given within three years prior to the death.

10.2 Succession

Under the universal succession principles, title and possession of the estate transfers automatically at death to the heirs. The heirs' liabilities to the deceased's debts are limited to the assets of the estate, if certain conditions are met.

An heir and a universal beneficiary under a testament may transfer their shares in the estate to another estate. Such a transfer shall be effected in writing.

10.3 Forced heirship

The Finnish Code of Inheritance statutes provide forced heirship provisions for the direct heir, adoptive children of the deceased, and the descendants of the direct heir, and the children of the adoptive children or direct heir. The lawful share is one-half of the value of the share of the estate that, according to the statutory order of succession, passes down to the direct heir.

Also, persons whom the deceased has disinherited in a testament, or that for some other legal reason are not to inherit, shall be taken into account when establishing the lawful share.

When determining the lawful share, due note shall also be taken to the value of property that is to devolve from the surviving spouse to the heirs of the deceased spouse, or to be paid to the surviving spouse.

Obligations in the form of a promise of a gift to be given from the assets of the estate shall not be deducted, in addition to amounts that are to be paid for future fulfillment of the deceased's statutory maintenance obligation.

In the absence of special reasons to the contrary, advances given by the decedent and gifts given by the deceased shall be added to the assets of the estate. The value of the property shall be its value when received, unless the circumstances require otherwise.

10.4 Matrimonial regimes and civil partnerships

Chapter 3 of the Finnish Code of Inheritance regulates the inheritance of spouses and registered partners.

A spouse or registered partner has the right of possession of the estate and may possess the entire estate undivided.

If the deceased has no direct heirs, the entire estate goes to the spouse. The estate forms a common property together with the property of the surviving spouse.

If the deceased does not have secondary heirs (father, mother, brother, sister, stepbrother or stepsister, or their descendants), the spouse gets unlimited property rights to the estate.

The deceased may have either limited or extended the amount of secondary heirs using a testament. Also, institutions may be secondary heirs of an estate.

The surviving spouse may use the common property, sell it, lease it or lodge it as security without the consent of the secondary heirs. However, the surviving spouse may not include property that is due to the secondary heirs after the death of the surviving spouse in a valid testament.

10.5 Intestacy

A will is a legal document that regulates an individual's estate after death. For a will to take effect in Finland, it must be in writing and have the signatures of two witnesses. These witnesses must sign the will simultaneously and witness the testator sign the will before signing it themselves. The witnesses must know the document is a will, but it is up to the testator to decide whether they can see the contents of the will. The above-mentioned rules are to ensure that the will is made with due consideration and reflects the last will of the testator.

In the case of intestacy, the estate passes under predetermined rules known as intestate successions. The intestate succession is in the following order:

- Direct heirs in a descending line
- Spouse or registered partner

When there are none of the above, the intestate succession is in the following order:

- Parents and their direct heirs in a descending line
- Grandparents and their direct heirs in a descending line
- Great-grandparents and their direct heirs in a descending line with the exception that the great-grandparents' grandchild and their direct heirs in a descending line (deceased cousins) are not entitled to inheritance

Any relatives other than the abovementioned cannot inherit. If there are no abovementioned relatives and no will, the state inherits.

10.6 Probate

After the death of the testator, the beneficiary of the will must inform the heirs and other shareholders of the estate of the will. This has to be done either through a writ-server or in another verifiable way. The heirs and shareholders of the estate shall be presented with a verified copy of the will.

If the sole heir of the testator is the surviving spouse, then the secondary heirs mentioned in Section 10.5 will have to be informed of the will in the same manner as primary heirs and other shareholders of the estate. The state must be informed of the will in the same manner if the testator had no heirs.

If there are several beneficiaries of the will, the information delivered by one of these beneficiaries is binding for the others.

If an heir wishes to contest the will, he or she must bring a suit against the will within six months of receiving notice of the will. If the heir has accepted the will or has relinquished his or her rights to contest the will in a verifiable manner, the heir loses all rights to bring suit against the beneficiary of the will.

11. Estate tax treaties

11.1 Double taxation treaties

Finland has concluded double taxation agreements concerning taxes on inheritance with France (1958), the Netherlands (1954), Switzerland (1956) and the United States (1952).

In addition, Finland concluded double taxation agreements concerning taxes on inheritance and gifts with the other Nordic countries (Denmark, Iceland, Norway and Sweden) in 1989. Sweden and Norway have terminated the agreement as they no longer have gift or inheritance taxes.

The Nordic treaty largely follows the Organisation for Economic Co-operation and Development's (OECD) 1982 Model Estate, Inheritance and Gift Tax Convention. The other treaties predate the OECD model. However, the other treaties are also based on similar principles to the OECD model in the division of the taxing right between the contracting states. The US treaty deviates the most from the OECD model.

Under the US treaty, both the state of residence of the deceased person and the state of residence of the beneficiary have a taxing right. Each of the states must deduct in its taxation the tax paid in the other state with respect to property situated in that state.

Finland also has a tax treaty on gift taxes with Greece that was concluded in 1995. The Greece treaty requires that no gift tax be levied on real estate situated in one of the states and donated to the other state or a public body of it, for purposes of public interest.

France

EY contacts:

Paris

EY Société d'Avocats
Tour First
1 Place des Saisons
92400 Courbevoie
France

Florentin Leroux
florentin.leroux@ey-avocats.com
+33 6 26 97 46 99

Amandine Allix Cieutat
amandine.allix.cieutat@
ey-avocats.com
+33 1 55 61 33 84

Juliette Garcin
juliette.garcin@ey-avocats.com
+33 1 55 61 15 84

1. Types of tax

France taxes all transfers regardless of whether there is a transfer of assets resulting from a death or a gift.

Historically, gifts were considered early transfers from a future succession. Consequently:

- With a few exceptions, the rules applicable to donations and successions are the same.
- Successions in general take into account gifts between the deceased and the heirs (back-tax rule) (see Section 1.1).

The inheritance and gift taxes are national and levied by the French state.

Additionally, France imposes taxes on:

- French real estate owned (property tax and wealth tax) or occupied (dwelling tax)
- French real estate owned anonymously (3% tax on real estate)

France also taxes income and capital gains derived from properties located in France through personal income tax.

The following rules apply, subject to the provisions of double tax treaties.

1.1 Inheritance tax

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.

Based on territoriality rules, tax must be paid in France if:

- The deceased was a French tax resident.
- The heir is a French tax resident at the deceased's time of the death and has been a French tax resident for a period of six consecutive or nonconsecutive years during the 10 years prior to said death.
  Or
- The assets are located in France.

Based on the aforementioned territoriality rules and specific rules exempting certain assets, the taxable estate is, in principle, determined in accordance with French civil law rules (see Section 10).

The debts of the deceased, substantiated as of the date of death, are then deducted from the estate assets (see Section 6.1).

Inheritance tax is calculated on the net portion transferred to each heir or legatee based on the devolution by French civil law rules and any testamentary provisions of the deceased.

The net share received by each heir will:
- Include a tax allowance that depends on the kinship of the beneficiary with the deceased (see Section 3.1).
- Be subject to a tax rate based on a scale that depends on the kinship of the beneficiary with the deceased (see Section 3.1).

Before applying the allowance, any previous gifts made by the deceased to the same beneficiary should be added to the net share of the beneficiary if the gifts were given less than 15 years prior to the death (back-tax rule).

The back-tax rule concerns all forms of gifts (e.g., gifts by notarized act, hand-to-hand gifts, *inter vivos* distribution). According to this rule, estates preceded by gifts made less than 15 years prior to death are considered a single conveyance.

The back-tax rule has the effect of allowing:
- The application of allowances (see Section 3), but only after deduction of those from which the beneficiary has already benefited for the previous gifts concerned
- The application of the various bands of the rate (see Section 3) for the portion not affected by the previous gifts concerned
- The application of tax reductions, less any reductions from which the beneficiary has already benefited for the previous gifts concerned

Conversely, with gifts given more than 15 years prior to death, the inheritance tax is calculated by taking into account the full allowances, the tax rate starting with the lowest bands and any tax reductions in their entirety.

1.2 Gift tax

Based on territoriality rules, a tax is due in France on a gift if:
- The donor is a French tax resident.
- The donee is a French tax resident at the time of the gift and has been a French tax resident for a period of six consecutive or nonconsecutive years during the 10 years prior to the gift.
  Or
- The gift concerned is an asset located in France.

Gift tax is, in principle, due from the donee. However, it may be paid by the donor without such payment being, in principle, considered a supplemental gift.

In principle, gifts follow the same tax rules as estates subject to certain differences. These pertain to:
- Exempt gifts
- Allowances
- Rates
- Tax reductions
- The earlier-gifts rule, when at least 15 years separate two successive gifts between the same people

In principle, any liability can be deducted from the taxable base of a gift (see Section 6.2).

Particularities concerning hand-to-hand gifts

In France, hand-to-hand gifts (*don manuel*) are not taxable if they are not declared to the French tax authorities.

However, undeclared hand-to-hand gifts become taxable:
- When spontaneously disclosed to the tax authorities either in response to a request by the latter or during a tax audit
- In relation to a later gift made by notarized act between the same persons or in relation to the death of the donor if the beneficiary of the gift is one of the presumptive heirs

Hand-to-hand gifts must be declared and registered within one month of disclosure; the tax is computed on the value of the donated asset on the day of disclosure, but if the gift was a cash gift, it is reported at its face value at the date it was made. Payment is made at the time of declaration.

The beneficiary of a hand-to-hand gift whose value exceeds EUR15,000 can spontaneously opt for the disclosure of the gift with the postponement of the declaration and payment of the corresponding tax before the end of the first month following the donor's death. The tax is computed on the value of the hand-to-hand gift as of the day of the declaration or as of the day of the donation, should the second amount be higher than the first.

The triggering event for gift tax occurs on the day of disclosure. Therefore, the statute of limitations for hand-to-hand gifts does not start as of the date of the gift but as of the date of disclosure of the gift. Consequently, a tax audit is not limited in time for undisclosed gifts.

1.3 Real estate transfer tax

Transfers of real estate or real estate rights in return for payment are, in principle, subject to a real estate registration tax (*droits d'enregistrement*) at a rate of 5.8%. This tax is computed on the fair market value of the real estate or real estate rights transferred. The tax is due by the purchaser.

The sale must be recorded in a notarized deed that the notary files with the territorially competent mortgage office (formerly the *bureau des hypothèques, now called the service de la publicité foncière*) along with the payment of the tax.

1.4 Real estate wealth tax (*Impôt sur la fortune immobilière*)

With effect from 1 January 2018, the former French wealth tax (*impôt de solidarité sur la fortune*) has been abolished and replaced by a new tax on real estate wealth (*impôt sur la fortune immobilière*).

Subject to the application of international tax treaties, the following are liable to French real estate wealth tax:
- French tax residents whose net fair market value of their worldwide real estate assets exceeds EUR1.3 million
- Non-French tax residents whose net fair market value of their real estate assets located in France exceeds EUR1.3 million

The taxable worth for a year is assessed on 1 January of each year (see Section 6.3).

This concerns, in particular, real estate assets held directly or indirectly by companies or via investments, such as real estate investment trusts (*SCPI*), undertakings for collective investment in transferable securities (*OPCVM*), collective real estate investment schemes (*OCPI*), listed real estate investment companies (*SIIC*), real estate companies and real estate units of account in redeemable life assurance contracts.

When real estate assets are held indirectly by a company, only the fraction of the value of the shares representing the real estate is taxable.

In addition, to limit the effects of this tax, tax exemptions and tax reliefs (see Section 4.2), as well as a wealth-tax-capping mechanism, exist (see Section 4.2).

1.5 Property tax (*taxe foncière*)

Property tax is due by any owner of real estate or land located in France on 1 January of the year of taxation.

The tax is collected for the benefit of local governments (municipalities, departments and regions), which vote on the tax rate each year depending on their needs. Consequently, the amount of tax is frequently very different depending on the location of the asset.

Property tax does not require the filing of a declaration by the taxpayer. At the end of the year, the taxpayer receives a tax notice with the computations performed by the French tax authorities.

1.6 Dwelling tax (*taxe d'habitation*)

Dwelling tax is levied on the person who occupies the residence on 1 January of a given year and must be paid by 15 November of that year.

This tax is levied for the benefit of the local authorities, who vote on the tax rate each year according to their needs.

Like property tax, the residence tax is based on the cadastral rental value. The taxpayer can challenge the value used if he or she believes it is too high.

Dwelling tax does not require the filing of a declaration by the taxpayer. At the end of the year, the taxpayer receives a tax notice with the computations performed by the French tax authorities.

The dwelling tax on main residences has been abolished since January 1, 2023. However, the dwelling tax remains due for all furnished premises occupied by:

- The owner or usufructuary, or tenant when using the premises as a secondary residence, meaning a furnished accommodation (and its dependencies) that is not their primary/main residence
- Companies, associations and private organizations, when these premises are not subject to the business property tax (CFE)
- State, departmental and municipal organizations, as well as scientific, educational and assistance public establishments, when these premises are nonindustrial or commercial in nature.

Article 16 of the French 2020 Finance Act provided for the gradual and definitive cancellation of residence tax over the period from 2020 to 2023 for a taxpayer's main residence only.

1.7 Tax on vacant properties (*taxe sur les logements vacants*)

The tax on vacant properties is an imposition in France aimed at encouraging the rental or sale of properties that have been unoccupied for an extended period. It is enforced by certain municipalities in areas where demand for housing is high.

Property owners of vacant homes may be subject to this tax if they do not occupy or lease their property for a duration defined by law. It is an alternative to the tax on secondary homes (see Section 1.6).

The amount of the tax may vary based on several factors, such as the property's location and size.

1.8. The 3% tax on the market value of real estate

French law provides for an anti-evasion tax in the form of a 3% tax computed on the market value of the real estate concerned. The purpose of the 3% tax is to prevent an individual, whether resident or nonresident, from evading real estate wealth tax on property (not assigned to any professional activity) in France by interposing one or more French or foreign legal entities.

The tax applies to all legal entities (corporations, trusts and foundations) regardless of the number of interposed entities.

The tax is due by the entity that is closest to the property in the shareholding chain and that cannot benefit from an exemption.

Legal entities can be exempted from this tax if their real estate assets in France are not assigned to their own professional activity or to the activity of their subsidiaries, represent less than 50% of their French assets, and are held directly or indirectly through interposed entities.

Several other cases of exemption are provided for by French law (e.g., international organizations, governments, pension funds, listed companies).

A legal entity cannot be exempted from the 3% annual tax if it does not fulfill its reporting obligations on time (Cass. com., 04/11/2020, no. 18-11.771, Lupa).

A legal entity must be able to prove that the information provided on the tax form is correct (Cass. com. 12-10-2022 n° 20-14.073). To prove the identity of its shareholders, a company may produce (1) corporate documents filed with the courts or public services of the state of residence of the entity, (2) declarations filed with the tax authorities of the state of residence of the entity, (3) documents authenticated by a member of a regulated profession recording the distribution of securities, or (4) movements of securities or any other official document issued by the foreign administration specifying the identity and address of the shareholders and the number of shares or rights held.

The annual return must be filed no later than 15 May of each year. The disclosure commitment must be made within two months following the acquisition of the real estate. As of 2021, the 3% tax return will have to be filed online, which requires the taxpayer to apply for an identification number (a "SIREN") by submitting an EEO tax form.

In addition, as of 2022, the 3% tax on the market value of real estate must also be paid by electronic payment.

Therefore, a resident or a nonresident cannot anonymously hold real estate in France unless he or she pays this tax each year.

This 3% tax is calculated on the market value of properties held on 1 January without it being possible to deduct the debt incurred to acquire these properties.

2. Who is liable?

From a French tax law point of view, there is no difference between domicile and residence; both terms cover the same concept.

2.1 Liability and territoriality of French inheritance and gift taxes

Inheritance and gift taxes follow the same territoriality rules.

The territorial field of application of inheritance and gift taxes is extremely broad, as it depends on the residency of the deceased (donor), the location of the assets and the residency of the beneficiary (heir, legatee, donee). These rules apply subject to any international tax treaty rules that may override them (Article 750 ter, FTC).

The rules governing the determination of the residency of the deceased, donor or beneficiary are those applicable to income tax (Article 4 B, FTC), subject to any international tax treaties that may override them.

Rules governing the residency of the deceased (donor) and the beneficiary (donee)

People meeting the criteria below are considered as domiciled in France for tax purposes if:

- Their home or primary residence is located in France.
- They are carrying out a non-incidental professional activity in France.
- The center of their economic interests is in France.

French territoriality rules applicable to inheritance and gift taxes

Based on the territoriality rules, gift tax applies in three situations:

1. When the deceased or the donor is domiciled in France, all movable and immovable properties located in France and outside France transferred free of charge are subject to tax in France.
2. When the deceased or the donor is domiciled outside France and the beneficiary has been domiciled in France for at least six years during the 10 years prior to the death or donation, all movable and immovable properties located in France or outside France are subject to tax in France.
3. If the deceased and the donee are non-French tax resident, gift tax will only apply on assets located in France.

French assets include shares in foreign companies for up to the value of real estate and real estate rights owned in France compared to total worldwide assets when the value of French real estate and real estate rights represents more than 50% of the corporate assets (real estate and real estate rights or other assets) located in France.

In the first and second of the above three situations, tax paid outside France on assets located outside France can be deductible from the tax due in France (Article 784 A, FTC).

Since 1 January 2020, certain senior executives of companies whose registered offices are located in France and that generate revenue exceeding EUR250 million in France may henceforth be deemed to be resident in France for tax purposes, regardless of the usual criteria. This may have an impact on current taxation as regards inheritance and gift tax: in fact, if a senior executive can be considered a French resident, France could tax without limit any assets he or she transfers by gift or on death. The same unlimited tax liability applies if this senior executive can be considered to have been resident for at least six years during the last 10 years: all assets transferred to him or her by gift or on death, whatever their location, are taxable in France.

Nevertheless, in the event of a conflict of residence between two countries, the country of residence may be determined in accordance with a double tax treaty.

Impact of international tax treaties

France has signed 37 treaties relating to inheritance tax and 10 treaties relating to gift tax (see Section 11.2), which significantly override the rules presented below.

Most of the treaties follow these rules (e.g., Spain, Monaco):

- When the donor or the deceased is domiciled in France, all movable property located in and outside France, and only immovable property located in France, are subject to tax in France.
- When the donor or the deceased is domiciled outside France, only the movable and immovable property located in France is subject to tax in France.

- The tax rate applicable to the French assets received by a beneficiary who is a French resident and who has also received assets outside France, which are not taxable in France under the provisions of the treaty, is calculated by considering non-French assets (the effective rate rule).

The most recent treaties follow other rules (Belgium, Germany, Italy, Sweden, the United Kingdom and the United States):

- Each state applies its own law to the succession of persons who are residents of its territory.
- The state of residence of the deceased grants a tax credit on the tax that it has calculated under its own law equal to the tax levied by the other state on assets subject to double taxation.

Impact of the rules of territoriality on hand-to-hand gifts

Based on the territoriality rules described above, assets outside France escape the French conveyance fees only if both the deceased or the donor and the beneficiary are not French residents at the time of the transfer.

Because the event generating the hand-to-hand gift is either its disclosure or an inheritance, it is prudent for a foreigner settling in France to disclose it upon arrival. He or she will then be exempt. Conversely, if the death of the donor occurs more than six years after the beneficiary has settled in France, the gift will then be taxed in France even if the estate is not subject to French law for back taxes.

2.2 Liability and territoriality of real estate wealth tax

The rules governing the determination of the residency of the taxpayer are those applicable to income tax (Article 4B, FTC), subject to any international tax treaties that override them.

Non-French residents who settle in France may be temporarily exempt from real estate wealth tax for the first five years after their establishment in France on assets that they possess outside France, provided that they have not been domiciled in France during the last five calendar years preceding the year of their establishment.

Since 1 January 2020, certain senior executives of companies whose registered office is located in France and that generate revenue exceeding EUR250 million in France may henceforth be deemed to be resident in France for tax purposes, regardless of the usual criteria. Liability for real estate wealth tax is unlimited for individuals who are French tax residents, unless otherwise provided for by tax treaties.

Nevertheless, in the event of a conflict of residence between two countries, the country of residence may be determined in accordance with a double tax treaty. Therefore, the new criterion could have an impact on taxation situations when a tax treaty concerning real estate wealth tax has been concluded with France. This is the case for Belgium, Denmark and the United Kingdom.

Impact of international tax treaties

France has concluded more than 50 tax treaties regarding wealth tax (see Section 11.2).

Most of these tax treaties follow the same principles (for example, Austria, Germany, Italy, Spain, Switzerland and the United States):

- Real estate is taxed in its state of location and in the state of residence of the taxpayer.
- Shares in a predominantly real estate company (that is, a company whose assets comprise a majority of real estate) when such company owns real estate in France are deemed to be real estate.
- Assets other than real estate are taxed only in the state of residence of the taxpayer.
- Double taxation is avoided through the tax credit method.

Certain other treaties (for example, Luxembourg, the Netherlands and Poland) apply the method of exemption by granting to only one state the right to tax according to the following rules:

- For real property, only in the state of location
- For other assets, solely in the state of residence of the taxpayer
- Each state taxes the elements of wealth reserved for it at the tax rate that would be applicable to the entire fortune (effective rate rule)

3. Rates

3.1 Allowances applicable to both gifts and inheritances

These allowances apply to the net share of each heir or on the gift before the application of the rate.

The main allowances are the following:

- EUR100,000 for direct line inheritances and gifts (scale applicable as from 1 September 2012)
- EUR15,932 for inheritances between siblings
- EUR159,325 for inheritances and gifts to disabled people (this allowance is added to the allowance to which such people are entitled within the family)

The principal allowances applicable to gifts only, in addition to those listed above, are as follows:

- EUR80,724 for gifts between spouses
- EUR31,865 per share for all gifts to grandchildren
- EUR5,310 per share for all gifts to great-grandchildren

The back-tax rule for gifts given less than 15 years ago is applicable. Therefore, this allowance is applicable only once every 15 years.

Rates

The rates and reduction amounts given are effective as of 1 January 2011.

Rates applicable to both gifts and inheritances

Direct line inheritances and gifts, collateral line inheritances and gifts, and inheritances and gifts among non-relatives are subject to the same rates.

Transfer in favor of ascendants and descendants

Value transferred (EUR)	Rate (%)
Up to 8,072	5%
From 8,073-12,109	10%
From 12,110-15,932	15%
From 15,933-552,324	20%
From 552,325-902,838	30%
From 902,839-1,805,677	40%
1,805,678 and above	45%

Transfer between siblings:

Value transferred (EUR)	Rate (%)
Up to 24,430	35%
24,431 and above	45%

Other cases	Rate (%)
Transfer between blood relatives up to the fourth degree (whatever the amount)	55%
Transfer between remote blood relatives (beyond the fourth degree) and unrelated parties (whatever the amount)	60%

Rates specific to gifts

Only inheritances between spouses are exempt. A special rate exists for gifts between spouses.

Gift between spouses:

Value transferred (EUR)	Rate (%)
Up to 8,072	5%
From 8,073-15,932	10%
From 15,933-31,865	15%
From 31,866-552,324	20%
From 552,325-902,838	30%
From 902,839-1,805,677	40%
1,805,678 and above	45%

Tax reductions

Shares in companies that benefit from an exemption of three-quarters of their value under an official lock-up arrangement taken by the shareholders (see Section 4.1) benefit from a 50% tax reduction if the donor is under 70 years of age, in the event of a full ownership donation only (Article 790, FTC).

3.2 Real estate wealth tax scale

The scale includes six rates:

Fraction of net taxable value of real estate assets (EUR)	Applicable rate (%)
Not exceeding 800,000	0%
Greater than 800,000 and less than or equal to 1.3 million	0.50%
Greater than 1.3 million and less than or equal to 2.57 million	0.70%
Greater than 2.57 million and less than or equal to 5 million	1%
Greater than 5 million and less than or equal to 10 million	1.25%
Greater than 10 million	1.50%

If the net taxable value of the real estate assets is equal to or greater than EUR1.3 million, but less than EUR1.4 million, the tax is calculated according to the scale shown in the table above and is reduced by EUR17,500 – 1.25%P, where P is the net taxable value of the assets.

The tax is reduced by the difference between:
- The amount of wealth tax and of all the taxes due in France and outside France in respect of the revenue for the previous year
- 75% of the worldwide revenue received

4. Exemptions and reliefs

4.1 Exemptions applicable to both inheritance and gift taxes

Exemptions may affect assets or persons.

The following are exempt from inheritance and gift taxes:
- Units or shares in companies with a business activity that, prior to being part of the estate or the gift, were part of an official lock-up arrangement signed by the shareholders (*Pacte Dutreil*) for up to three-quarters of their value (Article 787 B, FTC)
- Rural assets under long-term leases or transferable leases, as well as shares in agricultural land groups under certain conditions, for up to three-quarters of their value (Article 793, FTC), reduced to half of their value if the amount exceeds EUR101,897 (Article 793 bis, FTC)
- Units in rural land groups under certain conditions (Article 848 bis, FTC)
- Buildings classified as historical or related monuments and shares in real estate companies owning such buildings under certain conditions (Article 795 A, FTC)
- Gifts and bequests to the state, public authorities, scientific and educational public institutions, certain associations or foundations recognized to be of public interest acting in a charitable context, charitable organizations, environmental protection institutions, animal protection, medical or scientific research (Article 795 A, FTC)

Specific exemptions from inheritance tax

An inheritance received by the surviving spouse is fully exempt from inheritance tax (Article 796-0-bis, FTC).

There is also full exemption from inheritance tax between siblings under certain conditions related to disability or age, as well as the shared residence of the deceased with the beneficiary or beneficiaries (Article 796-0-ter, FTC).

Specific exemptions from gift tax

Certain gifts in kind to a child, grandchild or great-grandchild are exempt from gift tax for up to EUR31,865 if the donor is younger than 80 years old and the donee is of full age or is an emancipated minor (Article 790 G, FTC).

The declaration and registration must be made within one month of the date of the gift.

This exempt gift must be declared and can be renewed every 15 years.

An allowance of EUR100,000 is also available for each child, grandchild and great-grandchild, provided that the amount given is allocated within six months to the acquisition of a new property or a property in the future state of completion, or to certain energy renovation works related to the donee's principal residence. This allowance applies only to cash gifts, and the donee cannot receive more than EUR300,000 under this allowance. In the absence of children, this allowance may benefit nephews and nieces. The benefit of this exemption is revoked if the donee does not retain the property as their

principal residence or does not allocate it for rental as a primary residence for a period of five years. In the case of rental, the lease agreement cannot be signed with a member of the donee's tax household.

This allowance applies to amounts paid between 16 February 2025 and 31 December 2026.

4.2 Exemptions and reliefs from real estate wealth tax

Exemptions

The law exempts from real estate wealth tax certain property or rights, including:

- Real estate assets and rights held directly or indirectly and assigned to operations in industry, commerce, independent professions, agriculture or crafts (Article 965, FTC); this concerns the shareholders of companies that hold real estate assets intended for their own professional operations and shareholders who directly or indirectly hold a professional operating company that, in turn, directly or indirectly owns real estate assets that it makes available to another company in the same group as that to which it belongs for the purposes of the professional operations of said other company, provided that it has de jure or de facto control of it
- Real estate assets or rights needed for the exercise of a profession, including company shares under certain conditions (Article 975, FTC)
- The fraction representing operating real estate of shares in joint-stock companies with a business activity held by shareholder-managers under certain conditions related to the remunerated functions performed in the company and to the extent of the stake held (at least one-quarter of the share capital) (Article 975-III, FTC)
- Rural property and shares in agricultural land groups under certain conditions (Article 976, FTC)
- Woodlands and forests, as well as forest group units, for three-quarters of their value, if they are operated according to specific standards (Article 976, FTC)

These exemptions apply to both French property and property outside France.

French law also temporarily exempts (for five years) all real estate assets located outside France owned by a taxpayer who moves to France and becomes a French resident (see Section 2.2).

Reliefs

A measure has been put in place to reduce the tax payable.

- Tax relief in respect of gifts to certain not-for-profit organizations of general interest, equal to 75% of the payments made and capped at EUR50,000 (Article 978, FTC)

Cap on real estate wealth tax

For taxpayers resident in France, the amount of the real estate wealth tax calculated after application of the scale above and potential tax reductions may be reduced so that the cumulated amount of wealth tax and various other taxes paid by these taxpayers does not exceed 75% of their overall revenue (Article 979, FTC).

A new anti-abuse rule was introduced by the Finance Bill for 2017 targeting taxpayers who deliberately limit their income in order to benefit from the wealth tax cap mechanism by creating an intermediary company that is subject to corporate income tax, controlled by the taxpayer and would receive the dividends that the taxpayer normally would have received directly (the so-called "cash box" scheme). From 1 January 2017, the law now provides that the tax authorities may take these dividends into account for the calculation of the cap.

5. Filing procedures

5.1 Inheritance tax

All the beneficiaries of an estate, heirs and legatees, are required to sign an estate declaration, even if no tax is due, for reasons related to territoriality rules. The estate declaration may be drafted by one of the heirs on behalf of all heirs. It must, in addition, list all the assets in the estate.

The estate declaration (Form No. 2705) must be filed within six months of the death, if the death occurred in France, with the tax center of the domicile of the deceased.

If the deceased died while abroad, it must be filed within one year of the death with the tax center for nonresidents.

The declaration must indicate the testamentary provisions made by the deceased, all the gifts made by the deceased, regardless of how long ago, and the description and estimate of all the assets that are part of the estate (including exempt assets).

In principle, inheritance tax must be paid in cash at the time of filing the declaration. However, under certain conditions, payment may be deferred or made in installments.

5.2 Gift tax

A gift *inter vivos* is, in principle, a notarized act that the notary must file with his or her tax center within one month from the day of the signature of the act.

The tax is paid into the hands of the notary, who transfers it to his or her tax center.

Hand-to-hand gifts that are not reported at the time of the gift but are subsequently disclosed must be reported using Form No. 2735 within a month of this disclosure to the donee's tax center if the latter is a resident of France or to the tax center for nonresidents otherwise.

Hand-to-hand gifts exceeding EUR15,000 may be declared one month following the donor's death (see Section 1.2).

5.3 Real estate wealth tax

Taxpayers subject to real estate wealth tax must indicate each year the amount of the gross and net taxable value of their assets in addition to their taxable income on a specific Form No. 2042, IFI attached to the main Form No. 2042. The tax will be paid on receipt of a tax assessment notice.

5.4 Disclosure of trusts

As of 1 January 2012, a trustee must comply with several filing requirements when:

- The trustee or the settlor or the beneficiary (or beneficiaries deemed settlors after the initial settlor passed away) is French tax-resident.
  Or
- One or more of the assets or rights placed in the trust is located in France.

As of the Ordinance No. 2020-115 of 12 February 2020 regarding the strengthening of French Anti-Money Laundering and Financing Terrorism (AML/FT) framework, following the requirements mandated by the European Union (EU) Directive 2018/843 of 30 May 2018, a trustee must also comply with filing requirements when:

- The trustee is established or resident outside the EU.
- The trustee acquires real estate or enters into a business relationship in France.

The French tax law institutes two types of reporting obligations. These two reporting obligations are an event statement and an annual statement:

- Event statement: The event statement must be filed the month following the event (in a declaration n°2181-TRUST1). This form must be completed in French when the trust is constituted, modified or ceases to exist.
  The event triggering the reporting should be mentioned (i.e., changes to any amendment of the trust deed terms, the operating method; the settlor, beneficiary or trustee; the death of any of the parties involved; any transfer of assets in or out the trust; any transmission of the rights or products deriving from the trust; or any change in the legal or factual environment that could influence the functioning of the trust). The declaration must also contain a description of the term of the deed of trust.
  Failure to file the statement when the trust assets have been duly declared for the purposes of income tax and wealth tax, as well as transfer tax on inheritance and gifts, may result in a fine equal to the fixed amount of EUR20,000 (Article 1736 IV bis, FTC).
- Annual statement: The trustee must, no later than 15 June of each year, file an annual statement of the estate assets or rights placed in the trust as of 1 January of that year, except for real estate assets or rights already declared within the context of the French real estate wealth tax due by the settlor (Form 2181-TRUST 2). The statement must describe the terms of the deed of trust and list the estate assets or rights placed in the trust and their fair market value on 1 January of the year of declaration.

The Ordinance No. 2020-115 introduces new sets of data that must be filed in the trusts' returns: the protector(s), as well as any other natural person exercising effective control over the trust, and the nationality of each member of the trust.

The annual return is accompanied by payment of a tax equal to 1.5% of the assets comprising the trust, if appropriate (see Section 7.1).

Tax reassessments relating to income, assets or rights linked to an undeclared trust may be subject to a specific penalty equal to 80% of additional tax assessments, with a minimum penalty of EUR20,000 (Article 1729-0A, FTC).

These forms must be completed in French.

5.5 Declaration of funds held outside France

When declaring their annual income, individuals resident in France must disclose any bank accounts that they hold abroad and any insurance policies taken out abroad.

A taxpayer who fails to make this declaration will be liable to a tax fine of EUR1,500 per undeclared item (EUR10,000 if the account is in a country that does not accept the exchange of information), provided that the assets have been duly declared for the purposes of income tax and wealth tax, as well as transfer tax on inheritance and gifts.

However, if said assets have not been declared for the purposes of the above-mentioned taxes, all additional tax assessments related to the amounts or income recorded in bank accounts or life insurance policies may give rise to an 80% increase (Article 1729-0A, FTC).

6. Assessments and valuations

6.1 Inheritance tax

Inheritance tax is based on the value of the assets transferred and taxable, which are, in principle, appraised at their actual market value as of the day of death (economic value of the asset based on its particularities, without considering any conventional value).

However, certain assets are subject to specific legal rules of appraisal, including the following:

- The primary residence of the deceased is subject to a 20% deduction from the market value, subject to certain conditions.
- Furnishings are appraised at 5% of the estate assets, except when an inventory is prepared by a civil law notary.
- The listed marketable securities are appraised at the price as of the date of death or based on the average of the last 30 prices prior to the death.
- The debts owed to the deceased as at the date of death are considered for their nominal amount plus interest due not yet paid and interest accrued as at that date.
- Life tenancy and bare ownership transferred through the estate have the value set by a scale established by law (Article 669, FTC).
- Lifetime usufruct: Regarding assets of which the bare ownership or usufruct is transferred, the value varies depending on the age of the usufructuary as shown in the table below.

Age of the usufructuary	Value of the usufruct	Bare ownership value
Up to 20	90%	10%
From 21-30	80%	20%
From 31-40	70%	30%
From 41-50	60%	40%
From 51-60	50%	50%
From 61-70	40%	60%
From 71-80	30%	70%
From 81-90	20%	80%
91 and over	10%	90%

When the usufruct is settled with a fixed term, it is estimated at 23% of bare ownership for each 10-year period, or part thereof, of the usufruct, without regard to the age of the usufructuary.

The use of the fixed-term usufruct cannot give a usufruct value exceeding that of the lifetime usufruct.

Inheritance tax is calculated on the share of each heir, after deduction of the deceased's debts existing as at the date of death. Debts for which the deceased is not liable as at the date of death are not deductible. The same applies to certain debts such as those of contractual origin for the benefit of an heir, except in some cases. In addition, debts concerning exempt assets are charged as a priority against the value of these assets.

6.2 Gift tax

In principle, gifts follow the same rules as estates, but the 20% deduction for the primary residence, the 5% flat fee for furniture and the listed marketable securities based on the average of the last 30 prices are not applicable.

Debts concerning gifted assets are not deductible from the tax base of the gift tax.

6.3 Real estate wealth tax

Valuation

The assets must be valued at their market value on 1 January of the year of taxation under the same rules as those relating to inheritance tax described above. The taxpayer's principal residence, however, benefits from a 30% deduction from its market value.

Real estate wealth tax is determined after deduction of eligible debt owed by the taxpayers. It includes all real estate assets and property rights owned by the taxpayer and all real estate assets on which the taxpayer holds the legal usufruct (except fully or partially exempted assets).

For the valuation of company shares, debts may be deductible, subject to certain conditions. The Finance Law for 2024 amended Article 973 of the FTC to exclude, for the determination of the taxable value of the securities held by the taxpayer, the deduction of debts contracted, directly or indirectly, by the company and not related to a taxable asset. Two alternative safe harbor clauses may apply in case the IFI value is higher than the fair market value of the shares as determined after the application of the deduction limitation rules already in place.

However, the deductibility of loans taken out by the company with a member of the family group is conditional upon proof that the loans were granted in normal conditions. The deductibility of loans taken out by the company with the taxpayer's tax household or with a company controlled directly or indirectly by the taxpayer or the taxpayer's family group is conditional upon the justification of the absence of any intention to reduce the taxable base. The same justification is required for debts contracted with any person within the scope of "owner buyout" operations.

Special rules apply in the case of bullet loans taken out by companies.

The law provides for the general principle whereby the taxation of an asset encumbered by usufruct is borne by the usufructuary as if the latter were full owner of the asset.

However, the law provides for some exceptions, via the distribution of the taxation of the separated rights among the usufructuary and the bare owner, each being liable for its share according to the legal tax rate for (i) certain legal usufructs resulting from inheritance in the presence of the surviving spouse (see Section 6.1), (ii) the sale of the bare ownership to persons who are not heirs of the donor or who have never received any gift from the donor, and (iii) the gift of bare ownership to a public institution. On the other hand, if the separation of the attributes of ownership originates from a gift or a sale (except in the case mentioned here above), the usufructuary is taxed on the full ownership of the asset from which the attributes of ownership have been separated.

Deductibility of debts

Real estate wealth tax is calculated on the value of the taxable assets after deduction of certain debts.

For debts contracted by the taxpayer, deductibility is based, firstly, on their nature (debts resulting from the acquisition of or works related to the taxable assets, in proportion to the taxable fraction) and their effectiveness. It is then based on the type of lender. Thus, loans taken out directly from a member of the tax household or via an intermediary company acting as a relay are not deductible. However, it is possible to deduct loans taken out with a company controlled by the taxpayer or the members of its family group, if they can be shown to be of a normal nature.

Special rules apply in the case of bullet loans taken out by companies.

Lastly, the law provides for an overall cap on such debts. When the value of the taxable real estate assets exceeds EUR5 million, the debts exceeding 60% of the value of these assets can only be deducted for up to 50% of the excess amount.

7. Trusts and *fiducie*

7.1 Trusts

Trusts are institutions that do not exist under French law. However, French case law recognizes the validity of trusts set up abroad and recognizes the effects that those trusts may produce in France.

The answers provided by French case law in civil matters to the various situations involving trusts are incomplete.

However, from a French tax law point of view, Law No. 2011-900 of 29 July 2011 establishes a treatment obviously intended to fight against any possibility of tax evasion.

These provisions do not reflect the various distinctive characteristics that may affect trusts (revocable or irrevocable trusts, discretionary or not). The purpose of these provisions is to:

- Subject the assets owned by the trust to the duty on transfers without valuable consideration (*droit de mutation à titre gratuit*) as if the trust did not exist, upon the death of the initial settlor and upon the death of the successive beneficiaries when the assets are kept by the trust (the successive beneficiaries are then treated as the initial settlor), according to territoriality rules similar to those relating to inheritance tax (see Section 2.1)
- Subject the assets owned by the trust to real estate wealth tax as if the trust did not exist, according to territoriality rules similar to those relating to real estate wealth tax (see Section 2.2)
- Create new declarative requirements for disclosure of the trusts under the responsibility of the trustees (see Section 5.4)

Taxation of transfers made by means of trusts

The rules described below apply to gifts and deaths occurring as of 30 July 2011.

Duty on transfers without valuable consideration is due:

- On the entirety of the assets of the trust, regardless of their location, when the settlor is a French tax resident or when the beneficiary(ies) has (have) been domiciled in France for at least six years during the last 10 years, at the time of the transfer
- Only on the assets of the trust located in France, if neither the settlor nor the beneficiaries (as defined above) are French tax residents

The properties or rights that come under the territoriality rules described above are subject to different taxation rules depending on whether the transfer can or cannot be classified as a gift or an inheritance:

- Should such classification be possible, the transfer of properties or rights is subject to the ordinary law taxation rules on inheritance and gifts, according to the relationship existing between the settlor and the beneficiaries.
- Should such classification not be possible, the transfer of properties or rights, whether maintained in the trust or distributed to the beneficiaries outside the context of a succession, is taxable under the specific rule according to the case at hand:
- If, at the time of the death, the share due to a beneficiary is determined, this share will be subject to inheritance tax at a rate according to the relationship existing between the settlor and the beneficiary.
- If, at the time of the death, a share is allocated globally to the settlor's descendants, that share will be subject to inheritance tax at the rate of 45%.
- If, at the time of the death, a share is neither globally allocated nor attributed to a determined beneficiary, that share is subject to inheritance tax at the rate of 60%.

It should be noted that a transfer is always taxed at 60%:

- When the trustee is established in a tax haven
- When the trust was set up after 11 May 2011, by a settlor who was a French tax resident at that time

Real estate wealth tax on the assets held by a trust

Subject to the application of international tax treaties, the settlor (or after his or her death, the beneficiaries treated as the initial settlor) is subject to net real estate wealth tax on:

- The real estate assets placed in the trust, regardless of the location of such assets, if the settlor is a French tax resident
- The real estate assets placed in the trust located in France if the settlor is not a French tax resident

In the event of nondisclosure of assets placed in a trust for the purposes of real estate wealth tax, a 1.5% tax applies as a penalty for such nondisclosure:

- On real estate assets located in France or outside France if the settlor and the beneficiaries are French tax residents
- Only on the real estate assets located in France if the settlor and the beneficiaries are not French tax residents

This 1.5% tax would not be due on real estate assets:

- Included in the settlor's wealth tax base
- Officially disclosed but not liable to wealth tax

Those liable for the 1.5% tax are the settlor and the beneficiaries of the trust jointly. However, this 1.5% tax must be computed and paid by the trustee by means of a declaration to be filed on 15 June each year.

7.2 *Fiducie*

In 2007, French law created a new institution called *fiducie*, governed by articles 2011 to 2031 of the French Civil Code.

In some ways, the *fiducie* resembles a trust. Indeed, it allows a settlor to transfer property and rights to a *fiduciaire* (trustee) who will act on behalf of a beneficiary.

The fiducie may be useful for the management of the assets of minor orphans or legally disqualified persons.

However, contrary to a trust, the fiducie cannot, according to Article 2013 of the French Civil Code, be used for the purpose of donation at the risk of it being rendered null and void.

For the purposes of this guide, the fiducie is therefore of little interest, and its tax regime will not be further developed here.

8. Grants

With regard to estate taxes, there are no specific rules in France on grants.

9. Life insurance

Money paid by an insurance company under a life insurance policy held by the deceased and whose beneficiary is a third party is theoretically not subject to the rules governing successions. Consequently, this method, with its related tax advantages, is popular in France for carrying out asset transfers that the application of civil law rules (affecting the reserved portion) or tax rules (cost) could prevent.

Under civil law, the situation of the beneficiary of the contract is as follows:

- The money paid by the insurer is in principle not part of the succession; consequently, the money is neither subject to hotchpot (the process of returning to the mass of the succession any properties that a beneficiary has received in advance of his or her share so as to achieve equal division between beneficiaries) nor reducible through action for abatement.

- Furthermore, the premiums paid by the policyholder are not subject to hotchpot or abatement and may not be considered as forming a voluntary disposition subject to hotchpot or action for abatement unless the premiums paid were clearly exaggerated compared to the person's income or assets.
- From a fiscal viewpoint, money paid by the insurance company is not, in principle, part of the taxable estate.

However, this money may be partially taxable in accordance with specific tax rules for policies taken out since 21 November 1991:

- Premiums paid by the insured after age 70 will be subject to inheritance tax for the portion exceeding EUR30,500 (Article 757 B, FTC); this deduction is to be made on premiums paid globally on every contract, and not per beneficiary; conversely, interest generated by these premiums remains nontaxable (Article 757 B, FTC).
- A special 20% tax is levied on money paid by the insurance company in excess of EUR152,500 per beneficiary on the amounts corresponding to the premiums paid prior to the insured's 70th birthday (Article 757 B, FTC).

The tax rate is 31.25% on the portion of the net taxable profit exceeding EUR700,000.

Currently, only policies taken out before 21 November 1991 and whose premiums were paid before 13 October 1998 give entitlement to full exemption for death benefits.

10. Civil law on succession

10.1 Estate planning

The purpose of estate planning is to achieve two main objectives:

- A civil objective: to make it possible to anticipate the transfer of one's assets according to one's wishes
- A tax objective: to limit the taxation impact of the transfer of assets

Refer to Section 10.3 on the consequences of the new "*prélèvement compensatoire*" for estate planning, in case of application of a foreign civil law that does not recognize the reserved portion of an estate (especially common law countries).

Civil objective

The objective may be to give the surviving spouse more than he or she is normally entitled to receive, and in such cases, it will be possible to modify the matrimonial property regime or to provide for marital benefits. In these contexts, unlike in the case of donations and wills, the transfer of wealth is performed free of tax in France.

The objective may also be to give a person outside the family a part of the wealth, and in such cases, it will be possible to use a hand-to-hand gift (*don manuel*), a life insurance contract or a joint tenancy (*pacte Tontinier*).

Finally, it should be noted that within the context of estate planning, two vehicles are often used in France:

- A French non-trading company (*société civile française*), which is a company with a wide corporate purpose and a simple method of functioning, facilitating the transfer of wealth. This type of company is frequently used by nonresidents to hold real property in France (*société civile immobilière* or SCI).
- Separation of the attributes of ownership of an asset by separating temporarily, on the one hand, the right to use and the right to benefit from the revenue of those rights and, on the other hand, the right to dispose of such an asset (sale, modification, transfer). This separation makes it possible, from a French civil law point of view, to split the powers of the assets between different people and, from a French tax point of view, to reduce the impact of the taxation on the transfer.

Tax objective

The main objective will be to limit the tax burden, especially in the case of transfers.

Among the most commonly used estate planning vehicles are the non-trading company and the separation of attributes of ownership (*démembrement de propriété*).

The objective may be for a parent to transfer to their children only the bare ownership of property by a donation, which reduces the tax base accordingly. Upon the death of the usufructuary, the full ownership of the property is reconstituted in the hands of the children, free of tax.

The objective may also be for a parent to acquire an asset through a non-trading company and to transfer the shares to his or her children every 15 years to allow the application of the lower rates of the tax scale.

French law includes provisions to limit the use of the separation of attributes of ownership and the use of real estate companies for the purposes of avoiding wealth tax or inheritance tax. These provisions include, in particular:

- The measure against the separation of attributes of ownership performed other than by a donation of bare ownership between a parent and his or her bare-owner children whereby, in the event of the death of the usufructuary, the value of the asset subject to unrestricted ownership must be added to the inheritance as if it had not previously been transferred by donation (Article 751, FTC).
- The measure – relating to real estate wealth tax – against the undervaluation of companies by means of recourse to heavy indebtedness toward the company's own shareholders who have granted it advances. In such a case, such advances are not considered for the valuation of the company's shares (see Section 6.3).

Abuse of law

In the presence of a tax-saving scheme, the tax authorities may use the procedure for the prevention of abuse of law (Article L64, *Livre des Procédures Fiscales* (LPF)) when the scheme appears to be legitimate and difficult to dispute.

The authorities may call the scheme into question, arguing that it:

- Is fictitious and conceals another operation (for example, a sale at a very low price concealing a donation)
  Or
- Has been carried out solely for tax purposes, without any economic, legal, financial or family justification

In the event of acknowledgment of abuse, the penalty is equal to 80% of the tax evaded.

Article L64A, LPF, introduced pursuant to the French 2019 Finance Act, broadens the definition of "solely for tax purposes" as sanctioned by Article L64, LPF. Asset transactions could indeed be sanctioned if their main purpose, or one of their main purposes, is to obtain a tax benefit that defeats the object or purpose of the applicable tax law.

10.2 Succession

The fundamental principles of estate law and voluntary dispositions are as follows:

- The law classifies presumptive heirs by category and degree starting with the category of descendants. If there are heirs in the first category, they supplant the next category; furthermore, within one category, the inheritance goes to the heirs who are the closest relatives (see Section 10.5).
- The heirs become owners of the assets of the deceased upon the latter's death without formalities except when an administrator is appointed.
- The heirs, considered as successors of the deceased person, are liable for the debts of the estate even in excess of the amount of the assets, unless they have filed an official declaration with the regional court (*tribunal judiciairede grande instance*) stating that they accept the inheritance only to the extent of net assets.
- The right for a person to dispose of his or her estate free of charge is limited to guarantee that the heirs receive a part of the estate considered as intangible (the reserved portion of the estate of the deceased; see Section 10.3).

- There is a ban on the heir disposing of a future estate beforehand or waiving it before the opening of the succession (ban on future estate pacts), except for gifts between spouses and agreements as to future successions for waiver of action for abatement.
- Gifts are generally irrevocable.
- It is impossible to disinherit a descendant (see Section 10.3).
- There is a principle of equality among heirs of the same degree (except for the disposable portion).

Transfer of property

French law provides for specific rules regarding the transfer of property. However, a person may want to organize his or her own succession to favor a certain member of his or her family. To achieve this goal, the following may be used:

- With respect to the person's spouse, marital benefits or a gift between spouses and a will
- With respect to the person's children or any other person, gifts or a will

The freedom to dispose of one's assets is limited by the rights of the descendants of the deceased and the deceased's spouse on an intangible portion of the estate known as the reserved portion. The available portion is called the disposable portion.

The portion reserved for the children of the deceased is equal to half of the estate if the deceased is survived by only one child. It is equal to two-thirds of the estate if the deceased is survived by two children and three-quarters if the deceased is survived by three or more children. The portion reserved for the spouse is one-quarter of the estate and only exists if there are no descendants (see Section 10.3).

A person may freely dispose of the disposable portion and specifically benefit his or her spouse (through a gift between spouses or through a will) (see below) by choosing between:

- Usufruct of the entire estate
- Unrestricted ownership of the disposable portion
- Ownership of one-quarter of the estate and usufruct of three-quarters

To ensure compliance with the reserved portion and equality among heirs, at the opening of the succession, the voluntary dispositions and bequests made must be verified (through the hotchpot process) to limit them if necessary (a process known as action for abatement, i.e., where heirs claim back part of an excessive lifetime gift by the deceased that has detracted from their legal share of the inheritance).

Transfer and division of the estate

Heirs may simply accept the estate, which would make them the owners of all the assets and liabilities of the deceased.

They may accept it up to the net assets to limit their liability on the estate debts, or they may waive their right to the inheritance.

The heirs, as a result of the sole fact of the death, have the ownership and can administer the estate of the deceased. However, a person may designate during his or her lifetime one or more administrators of the estate by means of a notarized act (posthumous mandate).

To determine the portions of each heir, the following is done:

- The matrimonial regime of the deceased is canceled so that the spouse can be attributed the portion of joint assets to which he or she is entitled.
- A statement of the deceased's assets is drawn up as if at the time of the division the deceased had never made any voluntary distributions; this ensures that the reserved and disposable portions are calculated.
- Action for abatement of excessive voluntary dispositions is brought by the forced heirs entitled to the reserved portion against the beneficiaries of these dispositions; however, the heirs may waive this action for abatement by notarized act (agreement as to future succession) prior to the opening of the succession.

- Voluntary dispositions already made are brought into hotchpot provided that the heir that has received them is presumed to have received a portion of his or her future inheritance in advance (except, among other things, divided gifts (*donation-partage*) not subject to the hotchpot process).

Other gifts, free conveyances and voluntary dispositions

To offset the rules of devolution by law, French law offers several legal mechanisms that become effective either immediately and irrevocably (gifts) or at the time of death of the trustee (gift between spouses of future assets or bequests by will).

It would be impossible to address here the various types of gifts or bequests or their conditions of validity and system. We will simply cite the principal ones along with their fundamental features.

Gifts

A gift *inter vivos* is, in principle, a notarized act by which the donor transfers an asset immediately and irrevocably to the beneficiary. In principle, it is subject to hotchpot unless otherwise directed by the donor.

It may also carry obligations imposed by the donor on the donee (gift with a condition attached) such as gradual gifts (gifts made to a person who would transfer the assets received upon his or her death to another person designated by the donor) and residual gifts (gifts made to a person who would then transfer what is left from the assets at his or her death to another person designated by the donor).

Bequests

Bequests are provisions that become effective upon the donor's death as part of a will. They may pertain to the entire succession (universal bequest), or to a share of a succession (legacy by general title) or private assets (specific bequest). They may be gradual or residual, similar to gifts, and are set up through a will.

Under French law, four types of wills are authorized:
- The authentic will received by two civil law notaries or a notary and two witnesses
- The holographic will written entirely by the testator by his or her own hand
- The secret will prepared by the testator and given in an envelope to a civil law notary
- The international will

A will is freely revocable by the testator at any time.

Gifts of future assets between spouses

By will or by a notarized gift act (gift to the last survivor), it is possible to give one's spouse specific assets or a portion of one's assets. The effective date of the gift (as in the case of a bequest) is the date of death of the donor. This type of act may always be revoked. The maximum that may be transferred to the spouse is the disposable portion between spouses.

Impact of private international law

As from 17 August 2015, France has applied European Regulation No. 650/2012 of 4 July 2012.

In the case of deaths occurring after 16 August 2015, new conflict-of-law rules are going to apply for the European Community States (except for Denmark, Ireland and the United Kingdom) and will concern all residents of the European Community, regardless of their nationality. In the European Community, the law applicable henceforth to a succession will be the law of the last habitual residence of the deceased and will concern real estate as well as movable assets. However, the deceased may choose, by will, to designate his or her national law as the applicable law. This choice may already be exercised but will only take effect for deaths occurring after 16 August 2015 (*professio juris*).

The EU Regulation is of a universal nature and is, in principle, also applicable to successions that include assets outside the European Community, as well as Denmark, Ireland and the United Kingdom.

Testate successions are also subject to rules regarding the law applicable to the succession presented above.

When the European Regulation designates the law of a non-EU state as the applicable law, referral may be implemented and the conflict rule for that considered.

To illustrate referral, we will use the example of a French person who dies in an apartment that he owns in Tangiers, which is his domicile. French law designates Moroccan law as the competent jurisdiction to manage the succession. Nevertheless, Moroccan law designates the deceased's national law to be solely competent. The entire estate will be subject to French law.

However, in the case of succession concerning a state not governed by this Regulation, the latter may refuse the designation of its law as the applicable law and refer to the law of another Member State of the EU or to another state, which may result in a new scission in the settlement of the succession.

For example, suppose a British national is domiciled in the United Kingdom and owns a house in France. The EU Regulation designates English law for the transmission of this house in France. However, the United Kingdom is a state that is not governed by the EU Regulation. English law refers to French law for this house. The entire succession of this British national will be governed by English law except for the house in France, which will be governed by French law. To avoid this scission, the British national should stipulate in his will that he chooses English law for this property (according to the principle of *professio juris*), but it is not certain that English law will accept the effects of such designation.

The defined law applicable to the succession determines the presumptive heirs and establishes links of kinship, presumptive heirs who are forced heirs, the amount of the reserved and disposable portions of the estate, the succession rights of the surviving spouse (although there may be some interferences with the rights of the spouse derived from the matrimonial system), the transfer of the administration of the estate and its distribution.

The European Regulation also provides that, in the event of conflict, the competent courts shall be those of the state of residence of the deceased, if this residence is in an EU Member State. If the *professio juris* option has been exercised in favor of an EU Member State other than that of the deceased's residence, jurisdiction may be assigned to the chosen state (if the heirs so request or if the courts of the place of residence consider the choice to be relevant).

10.3 Forced heirship

The portion reserved for the children of the deceased is equal to half of the estate if the deceased is survived by only one child. It is two-thirds of the estate if the deceased is survived by two children and three-quarters if the deceased is survived by three or more children. The portion reserved for the spouse is one-quarter and only exists if there is no descendant.

In principle, if the estate does not fall within the scope of French law, then according to the rules of private international law, even if the estate includes French assets or if heirs to the estate live in France, the rules relative to the reserved portion are not applicable, as these rules do not form part of international public policy (Cass. Civ. 27 September 2017, no. 16-17198).

However, international successions in France just became more complex: Law No. 2021-1109 of 24 August 2021 reinforcing respect of the principles of the French Republic has introduced a "*prélèvement compensatoire*" mechanism that aims to ensure the efficiency of French forced heirship. It entered into force on 1 November 2021 and will apply to successions opened from that day onward.

When a deceased person has made several gifts and when a foreign law applies to a succession and provides no reserve mechanism protecting children, then any of the deceased's children or heirs or beneficiaries are entitled to claim a "*prélèvement compensatoire*" on existing assets located in France on the day of the death. However, the implementation of such a right requires that the deceased or at least one of their children is at the moment of death, a national of a Member State of the European Union or resides there habitually. In such a situation, the notary in charge of the settlement of a succession has a duty to individually inform each potential heir of their rights to challenge the different gifts and bequests made by the deceased that exceed the free portion available under French law.

This new text causes an issue with most common-law jurisdictions that do not know forced heirship rules. The new mechanism now questions the principles of choice of law and unity of the succession law applicable to the sharing-out of an estate under the European Regulation on Successions 650/2012 of 4 July 2012. Although the new law aims to protect heirs, its introduction may impact international successions in France by creating legal uncertainty with estate planning.

It is now more important than ever to review all international estate planning involving French assets.

10.4 Matrimonial systems and civil partnership

In France, spouses who marry without a marriage contract have a joint estate by law.

The spouses may also, by contract:
- Adjust the community system
- Adopt the system of sharing after-acquired property
- Adopt the system of separation of property

Community of marital property

In the community property system, the assets are divided into three groups:
- The separate property of each of the spouses, including assets that the spouses had prior to their marriage, assets received through a succession, gift or bequest, or assets acquired through reinvestment of private property or separate property of the spouse by accessory (for example, a house built on the spouse's separate property land).
- Joint assets that include acquisitions made together by the spouses with their gains, salaries, savings and revenues from their own separate property.
- At the end of the contract (by death, divorce or change of system), each spouse receives the separate property assets and proceeds and then the joint assets are shared. When the community property is shared out, the transfers of wealth that have occurred during the marriage between the two spouses' separate property assets and the joint assets must be determined in order to indemnify any assets that have increased in value at the expense of the others.

Adjustment to community property — marital benefits

Under the community property system, the spouses may, by means of a prenuptial agreement, make changes to the content and rules of sharing the community property as they see fit.

Some of the most frequently used clauses are:
- Universal community, by which all the assets, even those that are a spouse's separate property, are considered joint assets
- The *préciput* clause, which provides that the surviving spouse, prior to any division, has the right to receive a predefined item from the community property
- The clause of allocation in full of all the joint assets to the surviving spouse

It should be noted that all these clauses, called marital benefits, even if they are intended to benefit a spouse, are not considered gifts from a civil law viewpoint (they cannot be challenged by the heirs) or from a tax viewpoint.

The marital benefits method is used very frequently to favor one's spouse in the event of future succession.

Separation of property

Each spouse is the sole owner of his or her assets and revenues. If an asset is acquired with the other spouse, that asset is owned jointly by the spouses. In the event of dissolution of this system, each spouse would reclaim his or her assets and the undivided property based on the contribution made by the spouses for their acquisition.

Sharing after-acquired property

This system is inspired by German law. While the system is in force, it functions as a separate property system. After it ends, each of the spouses has the right to enjoy half of the value of any enrichment of the assets of the other spouse.

Aspects of private international law relating to matrimonial systems

On 1 September 1992, France adopted the law from the Hague Convention of 14 March 1978, applicable to matrimonial property regimes.

The spouses may choose the domestic law that will govern their matrimonial property regime either by applying:
- The laws of the country of which one of the spouses is a national
- The laws of the country in which one of the spouses has his or her habitual residence
- The laws of the country in which one of the spouses establishes his or her habitual residence after the marriage

The law thus chosen applies to all the assets of the spouses, but it is possible to choose to have immovables governed by the law applicable to the place where the immovables are located.

If the spouses have not designated the law applicable to their matrimonial property regime, the latter will be subject to the domestic law of the country in which they established their first habitual residence. If there is no such shared residence, the applicable law shall be that of their common nationality. The spouses may, during marriage, voluntarily choose to modify their matrimonial property regime and the law that will be applicable thereto, regardless of whether they had initially selected the domestic law and matrimonial system. However, this choice is limited to the laws described above.

If the two spouses have not voluntarily chosen the domestic law applicable to their matrimonial system and have been subject to the law of their first habitual residence, if they then change their country of residence, the law applicable to them will automatically change, unless they express their objection to such change.

The two principal cases of such change are:
- When the spouses establish their habitual residence in the country of which they are both nationals
- When the spouses have been residents in a country for more than 10 years

Two new EU regulations concerning matrimonial property regimes and civil partnerships were published on 24 June 2016: Council Regulation (EU) 2016/1103 and Council Regulation (EU) 2016/1104.

The Hague Convention no longer applies in France as from 29 January 2019, and as from that date, 17 other EU Member States will adopt the same new rules concerning conflict of laws and of jurisdiction regarding matrimonial property regimes and civil partnerships. In terms of matrimonial property regimes, the EU regulation includes the main principles of the Hague Convention, but it does not include the automatic change of law described above.

Civil partnership

From the point of view of personal asset management, a civil partnership registered in France creates neither a marital regime nor inheritance rights between the partners. The partners' asset regime only applies to the assets acquired during the civil partnership, which are assumed to be in joint ownership, unless a clause in the civil partnership agreement provides for another option. The transfer of property between partners can only be settled by donations, wills and joint acquisition (notably with the use of a non-trading company).

French law recognizes the consequences on the estate in France of a civil partnership registered under foreign law only for the movable or immovable assets owned in France.

However, from a tax point of view, deductions and the tax scale are the same for spouses as for the partners of a French registered civil partnership. Thus, a partner of a French registered civil partnership is exempt from any inheritance tax.

Partners of a civil partnership registered in another country may benefit from the tax advantages of French civil partnership legislation, under certain conditions.

10.5 Intestacy

When the deceased has not organized the succession by will, by adjustment to the marital property system or by gift to his or her spouse, the heirs and their rights can only be determined by law.

The law organizes succession by designating as heirs the surviving spouse, if any, and the members of the deceased's family, which it classifies according to four groups depending on how closely related they are to the deceased (descendants, mother and father with the brothers and sisters, grandparents, uncles and aunts with the cousins). If there are no members in the group most closely related to the deceased, then the next group in line becomes eligible.

The rights of the heirs to the succession are different depending on whether the deceased is survived by a spouse or not.

The following are the principal cases that could occur:

- If the deceased is survived by his or her spouse and children they had together, the spouse may choose between usufruct of the entire succession or full ownership of one-fourth of such succession. If the deceased has one or more children from a different relationship, the spouse can only inherit one-fourth in full ownership.
- If the deceased is survived by his or her spouse but has no descendants, father or mother, the spouse inherits the entire succession except for half the assets still listed in the succession that the ascendants would have given to the deceased and to which the siblings of the deceased or their descendants are entitled.
- If the deceased is survived by his or her spouse with no descendant but with an ascendant, the spouse inherits half and the father and mother of the deceased each inherit one-fourth. In addition, the father and mother are entitled to have the assets that they had previously given to the deceased returned to them. If the deceased is not survived by a spouse but by descendants, such descendants are entitled to the succession in equal shares.

- If the deceased is not survived by a descendant or by a spouse, the parents of the deceased as well as his or her siblings are all entitled to the estate.
- If the deceased does not leave any descendant, father or mother, brother or sister or their children, the surviving spouse inherits everything.

It should be noted that in all the aforementioned situations in which there is a surviving spouse, the latter is entitled to enjoy for life the primary residence of the spouses and a preferential allotment of that home at the time of distribution of the estate.

10.6 Probate

Probate proceedings do not apply under French law because the inheritance passes to the heirs by way of universal succession.

11. Estate tax treaties

11.1 Unilateral rules

In the absence of a tax treaty, when a French tax resident transfers any assets free of charge (*transmission à titre gratuit*), or when a beneficiary who is a French tax resident receives an inheritance or a gift, double taxation is avoided in France by the application of a unilateral rule.

The tax paid in another state can be offset against the tax due in France (Article 784 A, FTC).

This rule may also be applied to real estate wealth tax when a French tax resident is liable for this tax on assets located in a foreign country. In the absence of a tax treaty, real estate wealth tax paid to another state on assets located outside France may be offset against French real estate wealth tax.

11.2 Double taxation treaties

France has concluded inheritance tax treaties with the following countries and territories:

- Algeria, Austria, Bahrain, Belgium, Benin, Burkina Faso, Cameroon, Canada, Central African Republic, Congo, Finland, Gabon, Germany, Guinea, Italy, Ivory Coast, Kuwait, Lebanon, Mali, Mauritania, Monaco, Morocco, New Caledonia, Niger, Oman, Portugal, Qatar, Saint-Pierre-et-Miquelon, Saudi Arabia, Senegal, Spain, Sweden, Togo, Tunisia, the United Arab Emirates, the United Kingdom and the United States.

France has concluded gift tax treaties with the following countries and territories:

- Austria, Canada, Germany, Guinea, Italy, New Caledonia, Portugal, Saint-Pierre-et-Miquelon, Sweden and the United States.

France has concluded wealth tax treaties with the following jurisdictions:

- Albania, Algeria, Argentina, Armenia, Austria, Azerbaijan, Bahrain, Bolivia, Canada, Chile, Columbia, Cyprus, Czech Republic, Egypt, Estonia, Finland, Gabon, Georgia, Germany, Guinea, Hong Kong, Hungary, India, Indonesia, Israel, Italy, Ivory Coast, Kazakhstan, Kuwait, Latvia, Lithuania, Luxembourg, North Macedonia, Malta, Mauritius, Mongolia, Namibia, the Netherlands, Norway, Oman, Poland, Qatar, Quebec, Romania, Russia, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Ukraine, the United Arab Emirates, the United States, Uzbekistan, Vietnam and Zimbabwe.

France and Belgium signed a wealth tax treaty on November 2021. This agreement is still in the process of ratification and is not yet in force.

France has concluded amicable agreements about cross-border workers in the context of the COVID-19 pandemic:

- Belgium, Germany, Luxembourg, Italy and Switzerland

Germany

EY contacts:

EY Tax GmbH
Steuerberatungsgesellschaft

Flughafenstrasse 61
Stuttgart
70629
Germany

Ernst & Young Law GmbH
Rechtsanwaltsgesellschaft
Steuerberatungsgesellschaft

Flughafenstraße 61
Stuttgart
70629
Germany

Dr. Christian Philipp Steger,
Head of PCS, Germany
christian.steger@de.ey.com
+49 711 9881 11988

Dr. Patriz Ergenzinger
patriz.ergenzinger@de.ey.com
+49 711 9881 18199

Stefanie Guerra
stefanie.guerra@de.ey.com
+49 711 9881 15914

Cologne

Börsenplatz 1
Köln
50667
Germany

Dr. Dominik Müller
dominik.k.mueller@de.ey.com
+49 221 2779 16915

Eschborn/Frankfurt

Mergenthalerallee 3-5
Eschborn/Frankfurt (main)
65760
Germany

Daniel Schüttpelz
daniel.schuettpelz@de.ey.com
+49 6196 996 11997

Dr. Sven Wanka
sven.wanka@de.ey.com
+49 6196 996 11108

Hamburg

Rothenbaumchaussee 78
Hamburg
20148
Germany

Amadeus Amberg
amadeus.amberg@de.ey.com
+49 40 36132 17587

Heilbronn

Titotstraße 8
Heilbronn
74072
Germany

Lara Veronique Piechulla
lara.v.piechulla@de.ey.com
+49 7131 9391 29223

München

Arnulfstr. 59
80636
München
Germany

Korbinian Wintermeier
korbinian.wintermeier@de.ey.com
+49 89 14331 28446

1. Types of tax

1.1 Inheritance and gift tax

Germany has a unified inheritance and gift tax called *Erbschaft- und Schenkungsteuer* (ErbSt). ErbSt is imposed on any transfer of property at death or by gift (or by deemed gift). The basis of assessment is the benefit accruing to the transferee (beneficiary or donee), not – in the case of an inheritance – the estate itself. The ErbSt is regulated on a federal level, although the tax revenue is assigned to the federal states (*Bundesländer*) of Germany.

Note: Proceedings are currently pending before the Federal Constitutional Court regarding the constitutionality of German inheritance and gift tax. A decision is expected this year. In the event of unconstitutionality, significant changes to inheritance and gift tax are to be expected.

Note that in the case of German family foundations, there is a deemed taxable transfer of property every 30 years *(Erbersatzsteuer)*, which is subject to unlimited German ErbSt (recurrent charge). The 30-year period starts on the date of the first transfer of property to the German family foundation.

1.2 Real estate transfer tax

The (direct or indirect) transfer of German real estate is basically subject to real estate transfer tax of between 3.5% and 6.5%, depending on the federal state in which the real estate is located. But a transfer by inheritance or gift is usually exempt from real estate transfer tax.

2. Who is liable?

2.1 Unlimited liability

Any transfer of worldwide net property either at death or by gift (or by deemed gift) is generally subject to unlimited taxation if either the decedent (donor) or the beneficiary (donee) is considered to be resident in Germany for tax purposes. German tax residence exists if any of the following conditions apply:

- An individual has a residence or his or her habitual place of abode in Germany.
- A nonresident German citizen has been resident for tax purposes in Germany at any time within the last five years prior to a transfer at death or by gift.
- A nonresident German citizen is employed by a legal entity organized under German public law. In this case the dependents who live in the household of such German citizen have a German tax residency as well.
- A corporation or any other legal entity or estate has its place of management or legal seat in Germany.

2.2 Limited liability

Any individual or legal entity who is not resident as aforementioned will be subject to ErbSt only upon the transfer of net property, which is regarded as German-situated according to German national tax law. German-situated property means:

- Real estate, agricultural and forestry property situated in Germany
- Assets pertaining to a permanent establishment of a commercial business located in Germany

- Shareholdings in German resident corporations if the shareholder owns (individually or jointly with other persons closely related to the shareholder) directly or indirectly at least 10% of the registered share capital
- Inventions, designs and topographies recorded in a German register
- Assets that have been leased to a commercial business operated in Germany
- Mortgages or any other receivables secured by German-situated real estate or by German-registered ships, except for such receivables for which negotiable bonds have been issued
- Claims arising from silent partnerships and profit participating loans if the debtor has a residence, his or her habitual place of abode or, in case of corporations, its place of management or legal seat in Germany
- Any beneficial interests (e.g., right of usufruct) in the aforementioned assets

A nonresident individual as decedent or donor is subject to an extended limited tax liability (e.g., with regard to capital claims vis-à-vis German debtors, with regard to other German assets not mentioned above and with regard to assets that would be subject to German controlled foreign company (CFC) taxation in the case of a German resident), provided all of the following conditions are met:

- Such individual was subject to unlimited income tax liability in Germany within the last 10 years prior to a transfer at death or by gift.
- Such individual was cumulatively a German national and subject to unlimited German income tax liability for a combined period of five years within a 10-year time period prior to the end of the unlimited income tax liability.
- Such individual is resident of a low-tax jurisdiction according to the German CFC legislation.
- Such individual has substantial economic interests in Germany within the meaning of the German CFC legislation.

2.3 Residency

Place of residence

Under German tax law, an individual's place of residence is the place (dwelling or domicile) that the person occupies under circumstances that indicate that he or she will retain and use it on more than a temporary basis. Residence requires an intent to stay, which must be evidenced by objective criteria. The German tax authorities' interpretation of intent to stay is quite broad: Such intent will be presumed if an owned or rented dwelling is held available for the exclusive use by the owner, even if it is used only from time to time. Therefore, an individual can be resident in different places at the same time.

Habitual place of abode

The term habitual place of abode implies the location where a person is physically present under circumstances that indicate that his or her presence in that particular place is not merely temporary. Generally, a habitual place of abode, and thus tax residence, is deemed to exist if the individual's stay in Germany exceeds six months. In this case, he or she will be deemed resident for the entire period of his or her stay in Germany, including any brief interruptions.

Residency and double-taxation treaties

Special rules on the consequences of dual residency apply regarding certain double-tax treaties (DTTs). For example, according to the German-US inheritance and gift tax treaty, an individual who is considered a resident in both contracting states pursuant to national tax law but who is a citizen of only one of the contracting states will be deemed to have his or her place of residence for purposes of the DTT in that state for a period of 10 years after becoming a resident for inheritance- and gift-tax purposes in the other state.

3. Rates

The applicable tax rate depends on the tax class of the acquirer (see below) and the value of the taxable acquisition. The tax assessment basis is the taxable value of the assets transferred after exemptions and reliefs.

Taxable value of the acquisition exceeds (EUR)	Acquirer in		
	Tax class I	Tax class II	Tax class III
0	7%	15%	30%
75,000	11%	20%	30%
300,000	15%	25%	30%
600,000	19%	30%	30%
6 million	23%	35%	50%
13 million	27%	40%	50%
26 million	30%	43%	50%

Note that the taxable value of assets, which are excluded from German ErbSt pursuant to a DTT, must be added to the taxable value of the transfer in order to determine the applicable tax rate (progression reserve). Thus, the value of the excluded assets affects the overall rate.

The tax rate and the tax to be assessed are calculated based on a rolling 10-year period. All acquisitions from the same person through gift or inheritance within the last 10 years are combined to calculate the basis for the tax due, and the tax on the earlier acquisitions is credited against the tax due.

Acquirers not in tax class I who acquire agricultural or forestry or other business assets, interests in a partnership, or substantial shareholdings (direct participation of more than 25% of the registered share capital) in a corporation resident in Germany, in the European Union (EU) or in the European Economic Area (EEA) can, under certain conditions, benefit from a reduction of the tax rate. This reduction is the difference between the inheritance tax calculated on the basis of the tax class to be applied pursuant to the actual tax class of the acquirer and based on tax class I. Note that with regard to this benefit, the anti-abuse rules mentioned below also apply (see section 4.2 below).

The tax class of the acquirer depends on the relationship of the acquirer (donee or heir) to the donor or decedent. Acquirers are divided into three tax classes based on their relationship to the donor or decedent:

Tax class I:
- The spouse; should also apply for foreign-registered same-sex partnerships if such a form of partnership is legally recognized under foreign law
- Children and stepchildren
- Descendants of children and stepchildren
- Parents and ancestors (acquisition by death only)

Tax class II:
- Parents and ancestors (acquisition by gift)
- Siblings
- Nephews and nieces
- Stepparents
- Sons-in-law and daughters-in-law
- Parents-in-law
- Divorced spouse

Tax class III:
- All other acquirers, including legal entities

4. Exemptions and reliefs

There are several asset and purpose-related exemptions and personal exemptions. Furthermore, there are certain categories of tax-favored assets.

4.1 Asset and purpose-related exemptions

In particular:
- Household and personal effects up to a value of EUR41,000 and other movable property up to a value of EUR12,000 if acquired by a person in tax class I (see section 3).
- Household, personal effects and other movable property up to a value of EUR12,000 if acquired by a person in tax classes II or III (see section 3).
- Real estate (including parts of real estate), art items, collections of art and scientific items, archives, or libraries, if there is a public interest in preserving such items because of their importance to art, history or science, if the annual costs associated with those items normally exceed the income generated from such items and they are made accessible to science or the public. The tax exemption for collections of art and scientific items is 60% and for parts of real estate 85% of the fair market value (FMV) (*gemeiner Wert*). A total exemption is granted if further conditions are met.
- The acquisition of the family home for the owner's use is tax-free if it is gifted to the spouse inter vivos. The tax exemption also applies if the family home is passed to the aforementioned acquirers upon death, provided that the acquirer uses the family home for his or her own purposes for a period of 10 years after the acquisition. If there are pressing reasons why the acquirer cannot use the real estate for his or her own purposes (e.g., due to the acquirer's health condition), this tax-free status remains unaffected.
- Children and stepchildren, as well as children of deceased children or stepchildren, can acquire the deceased's family home by reason of death without paying tax if the acquirer uses the family home for his or her own use immediately and as far as the space used for living does not exceed 200 square meters. The portion exceeding 200 square meters is liable to tax. The exemption is lost if the acquirer does not use the family home for his or her own purposes for a period of 10 years after the acquisition. If there are pressing reasons why the acquirer cannot use the real estate for his or her own purposes (e.g., due to the acquirer's health condition), this tax-free status remains unaffected. Keep in mind, there have been several judgments concerning the interpretation of this tax exemption in the recent past.
- Gifts for reason of a commonly acknowledged occasion (such as birthday presents, wedding, Christmas), but only if at an appropriate value with respect to the occasion.
- Acquisitions by the Federal Republic of Germany, the German states or German municipalities.
- Acquisitions by registered religious communities, Jewish communities and charitable organizations.
- Acquisitions by German political parties.

4.2 Agricultural, forestry or business assets

A tax exemption is granted for certain tax-privileged assets in transfers of agricultural, forestry or other businesses; interests in trading or professional partnerships; or substantial shareholdings (direct participation of more than 25% of the registered share capital) in corporations resident in Germany, in the EU or in the EEA (in the following eligible assets). The privilege amounts to 85% or 100% of the FMV of the tax-privileged assets. For smaller business properties, an allowance of up to EUR150,000 is granted additionally to the privilege of 85% on the tax-privileged assets. Under certain conditions, which require long-term tax planning, family businesses can apply for a further 30% reduction of the tax base.

To gain the 85% privilege, the heir or the donee has to keep the eligible assets during a five-year period after the inheritance or donation, and the direct wage costs during this period have to amount to 400% of the average wage costs in the last five years before the tax accrues. To gain the privilege of 100%, the assets have to be kept for seven years and the direct wage costs during this seven-year period have to amount to 700%. Facilitations for small businesses apply.

If the prerequisites for tax-privileged treatment are no longer met, the 85% or 100% privileges are forfeited with retroactive effect on a pro rata basis that triggers supplementary taxation. However, the 85% privilege is only granted if eligible assets are transferred and the ratio of the value of non-privileged, nonoperating assets (*Verwaltungsvermögen*) to the total net value of the eligible assets (*Verwaltungsvermögensquote*) at the time of the transfer does not exceed 90%. The 100% privilege is only granted based on an additional test, according to which the ratio of non-privileged, nonoperating assets after certain set-offs may not exceed 20% of the net value of the eligible assets. Furthermore, the privilege of 85% or 100% is not applied in view of nonoperating assets (*Verwaltungsvermögen*) that have been kept for a period of less than two years (*Junges Verwaltungsvermögen*).

Tax-privileged assets, in principle, include the following assets, as long as they are not expressly defined as nonoperating assets (see below):
- Operating assets in Germany (individual companies or interests in partnerships) or foreign operating assets that serve a permanent establishment in the EU and EEA
- Proportionate operating assets of German corporations and corporations in the EU and EEA in which the decedent or donor held a direct share of more than 25% or, in the event that these are shareholdings of less than 25%, if the shares are subject to a pooling agreement and can only be disposed of according to certain rules set out in such pooling agreement or can only be transferred to other shareholders being or becoming pool members upon the share transfer, and the voting rights vis-à-vis shareholders not bound by the pooling agreement can only be exercised unanimously
- German operating assets of agricultural or forestry businesses, as well as corresponding foreign assets that serve a permanent establishment in the EU and EEA

Nonoperating assets (*Verwaltungsvermögen*) include the following assets, if they exceed 10% of the eligible assets:
- Real estate, portions of real estate, rights equivalent to real estate rights and buildings provided to third parties for use
- Shares of 25% or less in a subsidiary corporation
- Collections of art, art items, precious metals, precious stones (gems), coin collections, libraries, archives, scientific collections and other items serving a private lifestyle
- Securities and comparable receivables
- The FMV of the amount of currency, (bank) money and other claims if it exceeds 15% of the FMV of the business assets after deduction of liabilities (regulation is not applicable for finance companies within groups and for certain assets of other financial institutions)

In the case of group structures, the ratio of privileged to non-privileged assets for calculating the tax-exempt amount and the thresholds mentioned above is determined on a consolidated basis.

In the case of an acquisition by death, nonoperating assets can become privileged assets retroactively on the basis of a reinvestment into privileged assets within two years, if this investment is based on an investment plan that existed at the time of death.

The exemption is, in general, limited to transfers from one donor (decedent) to one acquirer with a total value of EUR26 million in a rolling 10-year period. Acquisitions totaling more than EUR26 million are subject to a decreasing exemption reaching 0% at an acquisition value of EUR90 million.

Alternatively, for acquisitions above a value of EUR26 million, the acquirer can file for an assessment of "need for tax relief," in which he or she only has to pay inheritance or gift tax in the amount of 50% of the non-privileged assets acquired, plus 50% of the assets owned by him or her before the acquisition, which would not be subject to a tax privilege if transferred. However, in the case of a further acquisition by gift or inheritance of non-privileged assets within the next 10 years, the relief is canceled. Then a new filing for a relief is possible, considering an additional 50% of the non-privileged assets acquired by the further gift or inheritance.

4.3 Personal exemptions

In addition to the asset- and purpose-related exemptions, personal allowances as described below are available upon taxable acquisitions. Please note that these allowances will be granted only once within a rolling 10-year period in each transferor/transferee relationship.

Beneficiary or donee	Allowance (EUR)
Spouse	500,000
Children, stepchildren and children of deceased children	400,000
Children of living children	200,000
Other persons in tax class I	100,000
Persons in tax classes II and III	20,000

For any transfer between nonresidents, which is subject only to limited German tax liability, these allowances are reduced in accordance with the ratio of the assets acquired that are not subject to German limited tax liability to the assets acquired in total (worldwide), again based on a rolling 10-year period.

An additional allowance of up to EUR256,000 is granted to the surviving spouse, provided that the surviving spouse is not entitled to pension payments upon the death of the spouse. If so, the allowance is reduced by the net present value of such pension claims. An additional allowance of up to EUR52,000 is granted to surviving children (up to age 27) depending on their age. Any entitlement to pension and similar payments reduces the allowance in the same way as described for the spouse. In the case of only limited German tax liability, these allowances apply only if the deceased or the acquirer is resident in a state that provides for administrative assistance in tax matters.

5. Filing procedures

Generally, on any transfer of property subject to ErbSt, the German fiscal authorities must be notified within three months of the transfer by the recipient. In the case of inter vivos transfers, the transferor also has a reporting obligation. In the case of a donation certified by a German notary public, a notification is not required.

Upon notification of a transfer subject to ErbSt, the German fiscal authorities may request the filing of an inheritance or gift tax return from any person involved in the transfer. The time frame for the filing must be at least one month, but an extension is generally granted upon request.

The tax becomes due upon receipt of the tax assessment by the taxpayer. It is normally payable within one month after receipt of the tax assessment.

Tax due on the acquisition by death of tax-privileged agricultural, forestry or other business assets may, under certain conditions, be deferred up to seven years (interest-free in the first year) upon request.

Tax due on the acquisition by death of real estate used for residential purposes may, under certain conditions, be deferred up to 10 years (interest-free in the first year) upon request.

6. Assessments and valuations

The tax assessment basis for the German ErbSt is the FMV of the transferred asset, to be determined on the basis of specific valuation rules for tax purposes, as laid out in the German Tax Valuation Act (*Bewertungsgesetz (BewG)*). The key principles are set out below.

Real estate

The decisive factor in the valuation of real estate is the type of land to be valued. The value of undeveloped real estate is based on the real estate value, considering the plot size and the most recent standard land values issued by the local committee of experts (*Gutachterausschuss*).

The value of developed real estate is determined using the following methods:

- Sales comparison approach (for apartments, part-ownership, semi-detached and detached houses): The sales comparison approach involves determining the market value of real estate based on actual purchase prices paid for real estate that is comparable in terms of location, use, layout, type and age of the building.
- Capitalized earnings method (for rented residential property, commercial and mixed-use real estate): The value includes both the value calculated for the buildings on the basis of the earnings (building earnings value) and the land value, which is calculated in the same way as for undeveloped real estate. The building earnings value is calculated using the net annual rent less operating costs and the interest on the real estate value multiplied by a factor that depends on the property rate and the remaining useful life.
- Asset value approach (for other built-up property, and in the absence of comparative values for apartments, part-ownership, semi-detached and detached houses, and commercial and mixed-use real estate): Using the asset value approach, the value comprises the standardized production costs for the installation on the real estate, as well as the real estate value (plot size × standard land value).

Business assets and company shares

Business assets are valued using uniform valuation methods, regardless of the legal form of the business. The FMV of listed shares is generally calculated based on the share price. Unlisted shares are valued using the following methods, which also have to be used to value partnerships and individual companies:

- Sales comparison approach: The FMV of operating assets is derived primarily from sales among third parties that have taken place no earlier than one year before the date of taxation.
- Capitalized earnings method: If there are no sales within the last year before the date of taxation, the FMV must be estimated by taking into account earnings prospects or another recognized method that is also customary in ordinary business for nontax purposes. The method used should be the one that an acquirer would use as a basis for assessing the purchase price. A frequently used capitalized earning method is laid out in the standard IDW S1, issued by the Institute of Public Auditors in Germany (*Institut der Wirtschaftsprüfer in Deutschland e.V.*). The taxpayer may also choose to use the "simplified capitalized earnings method" provided for in the BewG.

The business value calculated using the simplified capitalized earnings method breaks down as follows:

Capitalized earnings value of the operating assets

+ FMV of the nonoperating assets less the economically related liabilities

+ FMV of interests in partnerships and shares in corporations

+ FMV of the assets contributed within the two years prior to the transfer less the economically related liabilities

The capitalized earnings value of the operating assets is calculated using the following formula:
- Annual earnings that can be achieved on a long-term basis × the discount factor.
- The annual earnings that can be achieved on a long-term basis are derived from the average earnings for income tax purposes over the last three fiscal years prior to the valuation date.
- The discount factor has been set to 13.75 in 2016 and can be adjusted by the Federal Ministry of Finance in accordance with the development of the term structure of interest rates.

If a capitalized earnings method is used, the BewG prescribes as the minimum value the value according to the intrinsic value method: the minimum value to be disclosed is the FMV of all individual assets less the liabilities.

7. Trusts, foundations and private purpose funds

7.1 Trusts

German civil law does not contain specific provisions for trusts, and Germany has not ratified the Hague Convention on the Recognition of Trusts dated 20 October 1984. Therefore, German civil law does not recognize trusts.

For example, a foreign trust with German-situated property set up by a will is invalid from a German civil law perspective. Any trust that is created will be assimilated to the legal arrangement under German civil law that most closely resembles the provisions of the trust (e.g., fiduciary agreement, foundation, aggregation of property, nominee agreement, execution of a last will).

Taxation of the trust

The German tax authorities classify a trust basically on the basis of the following criteria:
- Revocable trust: The ownership of the assets is regarded as not being transferred to the trust. Income and assets of the trust remain taxable in the hands of the settlor.
- Irrevocable discretionary trust: The ownership of the assets is regarded as being transferred to the trust. The trust itself with its income and assets is subject to tax.

Taxation of the endowment with capital — inheritance and gift tax

The German tax treatment of a trust created under a foreign jurisdiction depends mainly on the economic substance of the foreign settlement. The basic criterion for determining whether the formation of a trust does constitute a taxable event under German tax law depends on whether the settlement involves a final and irrevocable disposal of ownership of the transferred assets. The transfer of assets to a trust is only subject to gift tax if the trust is then factually and legally able to freely dispose of the assets. According to the German Supreme Tax Court, the review of this criterion should be limited to the civil law position. The ruling stated that the party to whom the assets are attributable from an economic perspective is irrelevant. Consequently, the structure must be deemed a revocable trust and not constitute a transaction subject to gift tax if the settlor has reserved the following rights under the trust's constitution:
- To amend the constitution at any time
- To revoke the trust at any time
- To issue instructions to the trustee

Accordingly, the creation of a grantor's trust is, as a rule, not subject to gift tax if the settlor of a grantor's trust reserves the right to issue wide-ranging instructions to the trustee that extend to revoking the trust.

Tax class III is applied to foreign trust transfers that are subject to gift tax.

Taxation of the beneficiaries

Establishing a foreign trust leads to income tax consequences. There are certain risks with regard to pre-immigration trusts, as follows:

- If it is possible for the settlor to revoke the trust and unconditionally reclaim the assets (a revocable trust), and if the settlor has substantial influence on the investment decisions of the trustee, then the items of income (*Einkünfte*) and assets of the trust will most likely be taxed as items of income and assets of the settlor (viewed as a nominee arrangement).
- Irrevocable discretionary trusts of which more than 50% of the beneficiaries or remaindermen are relatives of the settlor are treated as foreign "family foundations" and are subject to the German CFC legislation. Consequently, if the settlor is tax resident in Germany, the items of income of the trust will be directly attributed to him or her and be subject to German income tax irrespective of whether there is a distribution to the beneficiaries.
- If the settlor is a nonresident but one beneficiary or remainderman is resident in Germany, the items of income and assets of such an irrevocable trust will be attributed proportionally to such beneficiary or remainderman and will be subject to German income tax irrespective of whether there is a distribution to such person.
- If the income from the trust fund is kept in a lower-tier company that is controlled by the trust (together with a related party, if applicable), and on which in general the German CFC rules apply, the items of income of such company will be attributed to the settlors or beneficiaries proportionally as well.
- The aforesaid rules do not apply if the trust or its management is domiciled in an EU/EEA Member State. Nevertheless, the beneficiaries of the income of the trust must additionally provide evidence that they have legally and factually been deprived of the power of disposal over the trust assets.
- If the income from an irrevocable trust is distributed to beneficiaries residing in Germany, it is subject to German income tax provided that there has been no taxation according to German CFC legislation. Thus, the German CFC law takes priority over the German income tax law.

Furthermore, a distribution by a trust to a German tax resident may be subject to German gift tax, in particular in the case of a dissolution of the trust.

This tax impact can be mitigated by the use of alternative entities or vehicles familiar to German civil law, which may achieve the intended economic result. For example:

- Provisional and reversionary heirs (*Vor- und Nacherbschaft*): Appointment of a spouse as the provisional heir (broadly speaking, giving full ownership for their remaining lifetime, but subject to certain safeguards that can partially be released by the testator) and children as reversionary heirs (full ownership at the death of the provisional heir).
- Usufruct/life interest (*Nießbrauch*): The donor can either retain the usufruct and transfer the asset subject to the usufruct, or retain the asset subject to the usufruct and transfer the usufruct. If an asset subject to a usufruct is transferred, only the value of the asset reduced by the value of the usufruct is subject to German inheritance and gift tax. If the usufruct ends upon the death of the usufructuary, this is not subject to German inheritance and gift tax.

7.2 Foundations

According to German civil law, a foundation (*Stiftung*) is an organization whose assets are dedicated to promoting a special purpose set by the founder. Traditionally, the capital of the foundation needs to be preserved and only the income is spent for the defined purpose. Alternatively, the foundation can be set up to consume its assets within a predefined period of time of at least 10 years.

A foundation has statutes regulating its organizational structure and codifying the purposes set by the founder. A foundation has no members or shareholders and is formed as a legal entity.

The foundation is formed as a legal entity by way of a unilateral declaration of intent (*Stiftungsgeschäft*) of the founder and the approval of the supervising authority (*Stiftungsaufsichtsbehörde*) of the federal state where the foundation is located. The founder declares to establish the foundation, gives the statutes and endows the original capitalization. The statutes set out the purpose and regulations for the organization of the foundation.

It is also possible to set up a so-called dependent foundation *(Treuhandstiftung)*, which is not a legal entity but based on a fiduciary arrangement. The following does not apply to a dependent foundation.

Taxation of the foundation

The foundation itself is subject to tax. Charitable foundations exclusively pursue special charitable purposes according to the German General Fiscal Code and enjoy tax shelter. If the only purpose of the foundation is the provision of benefits to the founder's family members (*Familienstiftung*), the foundation is not tax privileged.

Taxation of the endowment with capital — inheritance and gift tax

The endowment with capital of a foundation — either by the first endowment or by an external donation — is regarded as a gift because the founder or donor does not receive anything in return (like a share or membership right). If a foundation inherits capital, the inheritance is regarded as an acquisition by reason of death. Such endowments are generally subject to inheritance and gift tax provided that the foundation is factually and legally able to freely dispose of the assets endowed to it by the founder.

If the endowment with capital is subject to inheritance and gift tax, the higher tax rate of tax class III is applicable. For a foundation that is established mainly to foster the interests of one family or specific families in Germany, tax class I or tax class II applies depending on the degree of relationship of the furthermost beneficiary and the founder according to the deed of foundation. In addition, these foundations (*Familienstiftung*) are subject to a special inheritance tax every 30 years (*Erbersatzsteuer*).

The endowment with capital of a charitable foundation in Germany by the founder or donor is exempt from inheritance and gift tax provided that the foundation maintains its charitable status for at least 10 years. Under further prerequisites, this can also apply to foreign charitable foundations.

Taxation of the founder — tax deduction of donations

Donations made to German charitable foundations are tax deductible up to 20% of the taxable income of the donor or up to 4% of the total of his or her sales, wages and salaries, always within the respective tax year. The precondition for a tax deduction of donations is that the income of the donor is subject to income tax and assessed to taxation. Under further prerequisites, this can also apply to EU/EEA charitable foundations.

Donations of individuals to the capital reserve (*Vermögensstock*) of a charitable foundation may be deductible for income and trade tax purposes up to a maximum amount of EUR1 million in addition to the general tax deduction for donations. Spouses who made an endowment or a donation to a charitable foundation and who are assessed jointly can together deduct up to an amount of EUR2 million for donations. Donations or endowments to the capital reserve of a charitable foundation can be deducted in the year of payment or in the nine years following. During this 10-year period, the maximum tax deduction of EUR1 million (EUR2 million for spouses) can only be requested once.

Taxation of the beneficiaries

The provision of benefits to the beneficiaries (*Destinatäre*) of the foundation is subject to income tax for the beneficiaries. If the benefits are, from an economic point of view, comparable to dividends distributed by a corporation, they are subject to a flat rate withholding tax (*Abgeltungssteuer*) for the beneficiaries. Under certain conditions, German law allows a tax-sheltered charitable foundation to distribute a certain amount of its profit to the founder or his or her family as (appropriate) alimony (with a maximum of one-third of the foundation's annual income). These recurring payments are subject to income tax for the beneficiaries with a progressive tax rate.

Furthermore, the distribution of the funds of the foundation when it is dissolved is subject to German gift tax.

Please note that a major reform of Germany's foundation law became effective on 1 July 2023. As a result of this reform, there are important changes regarding amendments or changes to the foundation deed, the liability of board members, ways of changing the governance and the capital reserve of the foundation, and the use of the profits of the reorganization of assets within the foundation. From 1 July 2026, a public register for foundations will be introduced.

8. Grants

Grants to individuals (e.g., for maintenance) can be subject to German income tax and to German inheritance and gift tax. Specific tax exemptions can apply.

9. Life insurance

Income from life insurance is, under certain conditions, exempt from German income tax. Acquisitions by the beneficiary of life insurance are regarded as a gift or inheritance from the insurance holder, if applicable.

10. Civil law on succession

10.1 Succession

Under the universal succession principle, title and possession transfers automatically at death to the heirs.

- This includes unlimited personal liability for the deceased's debts (limitation may be reached by the use of special legal provisions).
- Legatees under a will only have a personal claim against the heirs with no personal liability of the heirs and only to the extent of the disposable estate.
- The estate is not regarded as a separate legal entity.
- An appointed executor may have the sole right of disposal with regard to the estate.

An heir may refuse an inheritance via a disclaimer within six weeks from the date the heir learns of his or her inheritance. After the expiry of six weeks (or with the application for a certificate of inheritance), the inheritance is accepted.

10.2 Forced heirship

The German Civil Code provides strict forced heirship rules enabling certain persons to claim a share of an estate if they are excluded from succession by the decedent's last will. German courts may apply, based on the German principle of ordre public, these forced heirship rules even in cases where, according to the German conflicts of laws rules, the general foreign inheritance law of a country without forced heirship rules would apply (e.g., English inheritance law).

The descendants and the spouse of the decedent may claim an amount of up to one-half of their intestacy share. Please note that the claim is for cash only and will not entitle the (partially) excluded claimant to any property in specie that forms part of the estate.

The forced heirship claim amounts to a cash value equivalent to the share of the FMV of the estate on intestacy:
- Less the FMV of any inter vivos gifts from the decedent to the claimant if, at the time of donation, the donor stipulated that the gift should be credited against the mandatory share
- Plus the FMV of any inter vivos gift from the decedent to a third person within the 10-year period prior to the death of the decedent — the addition is reduced by one-tenth for each full year that has lapsed after the date of the gift before the time of death
- If the gift was made to the spouse, the 10-year period does not begin before the dissolution of the marriage

According to a ruling of the German Supreme Court about a previous version of the respective provision, the 10-year period will not begin unless the donor gives up any economic use with respect to the gift (e.g., the 10-year period will not begin if a right of usufruct is retained by the donor).

These rules can be avoided by a pre-death waiver by the potential claimant. Such waiver may, in some events, require separate counsel for the claimant and will be valid only if performed by notarial deed.

10.3 Matrimonial regimes

Since 1 October 2017 same-sex couples have the right to marry. Registered same-sex partnerships can no longer be entered into. Partners of registered same-sex partnerships can apply to have their status changed to married.

German family law distinguishes between three marital property regimes.

Statutory marital property regime (*Zugewinngemeinschaft* — community of accrued gain)

According to this regime, spouses hold their assets as separate property during their marriage, although there are partial restraints on management and disposal. Upon divorce or death, the gain accrued on the property of the spouses during the marriage is to be shared. Note that the determination of the claim for such division is subject to a rather complex procedure, which is beyond the scope of this publication. The statutory regime may be modified (within certain limits) by a marriage contract, which must be implemented by notarial deed.

By marriage contract the spouses may also elect one of two contractual matrimonial property regimes, which may be further modified (within certain limits) by contract as well.

Separation of property (*Gütertrennung*)

Under this regime, each spouse holds his or her property independently in separate ownership. Management and disposal are not subject to any limitations deriving from the marital status, and there will be no equalization of the accrued gain at the end of the marriage.

Community of property (*Gütergemeinschaft*)

Under this regime, all assets become the joint property of the spouses (common property). Immediate joint ownership is also presumed for any assets acquired by each spouse during the marriage or the partnership while this property regime is in force. Assets that cannot be transferred by legal transaction do not become common property (*Sondergut*). Within the marriage contract, the spouses can agree to exclude certain assets from common property (Vorbehaltsgut). Assets acquired on inheritance at death or by gift are also excluded if so stipulated by the decedent or the donor.

10.4 Intestacy

A will is a legal document that regulates an individual's estate after his or her death. Germany will normally accept the formal validity of a will drawn up under the laws of the deceased's habitual residence at the time the will is made or at the time of death. Whether an individual has the personal legal capacity to make the dispositions in a will is generally governed by the law of the deceased's habitual residence.

If there is no valid will at his or her death, the deceased's estate passes under predetermined rules known as intestate succession. If the deceased had his or her habitual residence abroad, in general the law of this state of residence will apply.

A system of succession per stirpes governs intestate succession that divides the possible intestate heirs into different orders depending on the relation to the decedent, while the closest applicable order excludes the more distant orders.

1st order	Descendants
2nd order	Parents and their descendants
3rd order	Grandparents and their descendants
4th order	Great-grandparents and their descendants
Further heirs	More distant relatives and descendants
No heirs	The state

Within the first three orders, a system of per stirpes distribution and lineal heirs applies.

The intestacy rules are partially influenced by the matrimonial property regime.

Statutory regime	Spouse and one child* survives	Spouse and two children* survive	Spouse and three children* survive
Community of accrued gain	Spouse: one-quarter + one-quarter	Spouse: one-quarter + one-quarter	Spouse: one-quarter + one-quarter
	Child: one-half	Children: one-quarter each	Children: one-sixth each
Separate property	Spouse: one-half	Spouse: one-third	Spouse: one-quarter
	Child: one-half	Children: one-third each	Children: one-quarter each
Community of property	Spouse: one-quarter	Spouse: one-quarter	Spouse: one-quarter
	Child: three-quarters	Children: three-eighths each	Children: one-quarter each

* Children of a predeceased child of the intestate parent take their parent's share.

In the event that only the spouse survives (no children), the surviving spouse is entitled to one-half of the estate if relatives of the second order or grandparents of the decedent are still alive at that time and is entitled to the whole estate if only more distant relatives of the decedent are alive.

10.5 International private law

Succession planning for people who take up residences abroad and own assets that are located in various jurisdictions is a very complex subject because of the diversity of both the substantive inheritance law rules and the conflict-of-law rules. The same applies to questions on matrimonial property regimes with cross-border implications.

The EU Succession Regulation (*EU-Erbrechtsverordnung*), which is binding for Germany, subject to very few exemptions, harmonizes the conflict-of-law rules on cross-border successions of 25 EU Member States. Denmark and Ireland, along with the United Kingdom, Switzerland and other countries that are not part of the EU, are not directly bound by it but may also be affected, as Germany applies the rules of the EU Succession Regulation also vis-à-vis any other state.

From a German perspective, the applicable law on successions is basically the law of the state in which the deceased had his or her habitual residence at the time of death.

Testators are entitled to make a choice of law and determine the law applicable to their succession. This choice of law is, however, restricted to the law of nationality of the deceased at the time of making the choice or at the time of death and should be made expressly in the form of a disposition of property upon death.

The EU's recently adopted EU Matrimonial Property Regime Regulation (*EU-Güterrechtsverordnung*), which is applied by Germany, regulates for all marriages concluded after 29 January 2019 which national law applies to matters of matrimonial property law. This is relevant for spouses with different nationalities or if the (first) joint residence is abroad after the marriage. The spouses are entitled to make a choice of law and determine the law applicable to their matrimonial regime.

In parallel with the EU Matrimonial Property Regime Regulation, the Council of the EU has adopted a largely identical regulation, which applies to registered same-sex partnerships.

It should be noted that only 18 EU Member States apply the regulation. The nonparticipating EU Member States, as well as non-EU countries, are not directly bound by it but may be affected, as Germany applies the rules of the EU Matrimonial Property Regime Regulation also vis-à-vis any other state.

11. Estate tax treaties

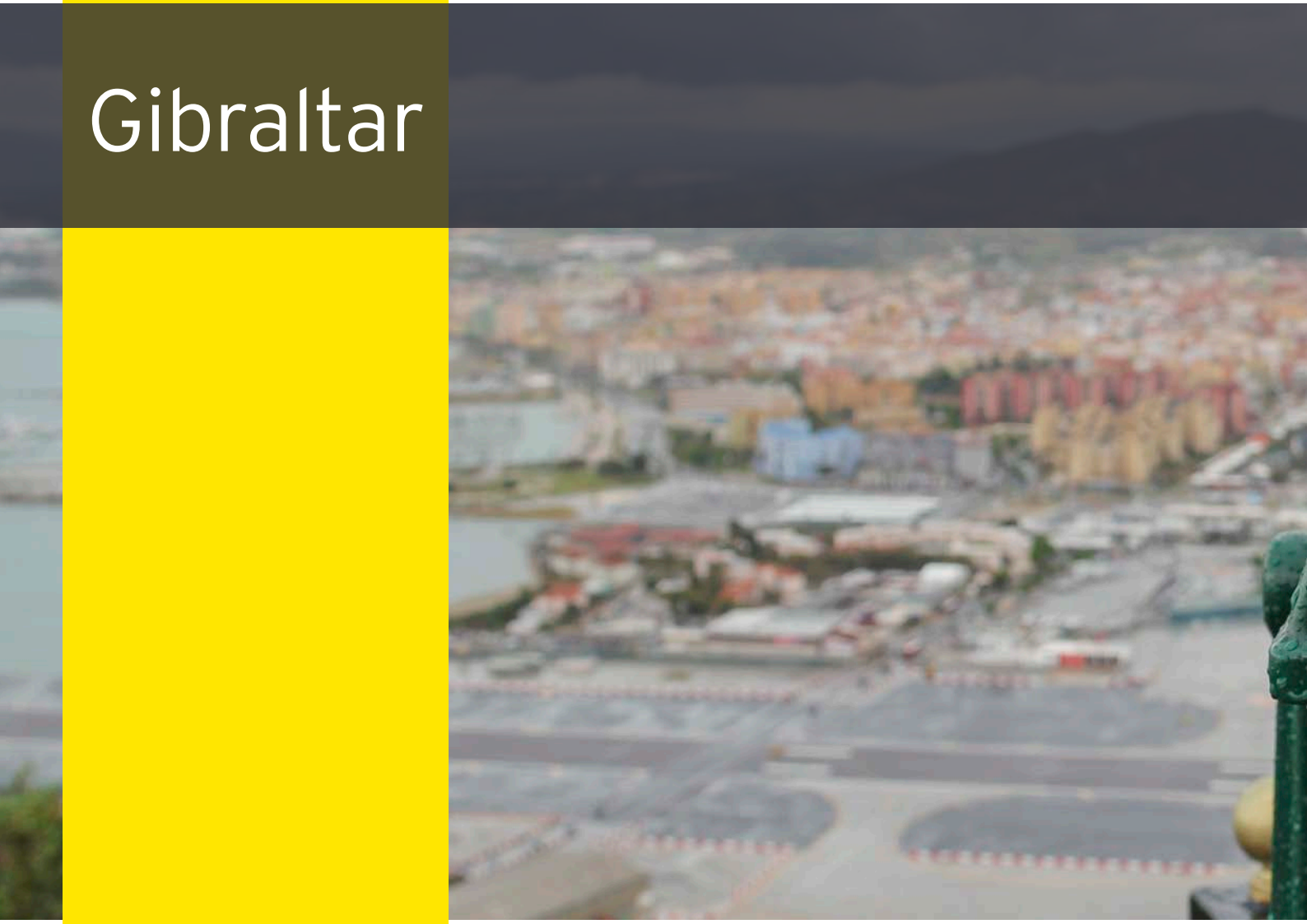
11.1 Unilateral rules

Foreign tax on the acquisition of certain foreign assets by death or gift, which is comparable to the German inheritance and gift tax, can be credited against the ErbSt falling to the acquisition of these assets.

11.2 Double-taxation treaties

Germany has concluded estate, inheritance and gift tax treaties with the following countries: Denmark, France, Greece (applies only to inheritance tax regarding movable property), Sweden, Switzerland (applies only to inheritance tax; corresponding application to gift tax for business assets, in individual cases application upon request possible) and the United States.

Gibraltar



1. Types of tax

1.1 Inheritance tax

There is no inheritance tax in Gibraltar.

1.2 Gift tax

There is no gift tax in Gibraltar.

1.3 Real estate transfer tax

Stamp duty is payable on the change in ownership of property located in Gibraltar (see Section 1.5). There is no other real estate transfer tax.

EY contact:

Gibraltar

EY Limited
Regal House
Queensway
PO Box 191
Gibraltar

Neil Rumford
neil.rumford@gi.ey.com
+350 2001 3200

1.4 Deed tax

There is no deed tax in Gibraltar.

1.5 Stamp duty

Stamp duty is payable on the change in ownership of real estate property located in Gibraltar and on instruments relating to certain capital transactions, pursuant to the Stamp Duties Act 2005. The following are the principal rates:

- On initial authorized share capital and increases thereof – flat rate of GBP10 per transaction
- On loan capital (on each issue, e.g., debenture stock) – flat rate of GBP10 per transaction

On conveyance or transfer of real estate property as follows:

First- and second-time buyers of single-dwelling residential properties (noncorporate buyers only):
- First GBP300,000* of purchase price – zero
- Balance above GBP300,000* to GBP350,000 – 5.5%
- Balance from GBP350,001 to GBP800,000 – 3.5%
- Balance above GBP800,000 – 4.5%

Other purchases of real estate:
- Where purchase price does not exceed GBP200,000 – zero
- Purchase price of between GBP200,001 and GBP350,000 – 2% on first GBP250,000 and 5.5% on balance
- Purchase price of between GBP350,001 and GBP800,000 – 3% on first GBP350,000 and 3.5% on balance
- Purchase price of over GBP800,000 – 3% on first GBP350,000, 3.5% on next GBP450,000 and 4.5% on balance.

There is no stamp duty when the property is being transferred between spouses or following the dissolution of a marriage between former spouses.

Stamp duty of 7.5% applies to the sale of certain properties that were sold as an "affordable home" for and on behalf of the government in the four years preceding the introduction of this measure. This will not apply in certain circumstances, for example, a forced sale.

Stamp duty on mortgages is as follows:
- Mortgages not exceeding GBP200,000 – 0.13%
- Mortgages over GBP200,000 – 0.2%

1.6 Land appreciation tax

There is no land appreciation tax in Gibraltar.

1.7 Endowment tax

There is no endowment tax in Gibraltar.

1.8 Transfer duty

There is no transfer duty in Gibraltar (but see Section 1.5).

1.9 Net wealth tax

There is no wealth tax in Gibraltar.

2. Who is liable?

There is no inheritance tax, estate duty, wealth tax or similar taxes in Gibraltar.

Stamp duty is payable on the change in ownership of real estate property located in Gibraltar, irrespective of the residency or domicile of the owner of the property. Similarly, stamp duty is payable on relevant capital transactions irrespective of the residency or domicile of the beneficial owner of the shares or loan instrument.

3. Rates

There is no inheritance tax, gift tax, estate duty or equivalent taxes in Gibraltar.

4. Exemptions and reliefs

There are no exemptions and reliefs in Gibraltar.

5. Filing procedures

There are no filing procedures in Gibraltar.

6. Assessments and valuations

This does not apply.

7. Trusts, foundations and private purpose funds

Gibraltar trust law is based on Anglo-Saxon legal concepts, which recognize and give full legal effect to the concept of a trust. The Trustee Act, the main legislation governing trusts, is based on the English legislation incorporated in the Trustee Act 1893.

There have been certain amendments to the legislation, such as the introduction of the Variation of Trusts Act 1958 under the English Law (Application) Act, the Perpetuities and Accumulation (Amendment) Act 2014 and the Purpose Trusts Act 2015.

Discretionary trust is known and widely applied in Gibraltar and the provisions of the Perpetuities and Accumulations Act 1964 in England apply with some amendments. The perpetuity period now stands at 250 years.

The Registered Trust Act 1999 provides a facility for the registration of a trust deed (where registration is required by the trust deed) and for the keeping of an index of the names of such trusts. A registration fee is payable (GBP100), together with the submission of a form of Short Particulars and the Deed of Trust. The Deed of Trust is simply endorsed with the date of registration and returned; no copy is retained. The register will thereafter contain only the following details for public inspection:

- The name and date of creation of the trust
- The amount of the initial settlement
- The name of the trustee(s)
- A Gibraltar address for service
- The date on which registration was made

The capital of a trust is not liable to tax in Gibraltar.

Asset protection trusts

This type of trust seeks to protect the assets of a settlor from such situations as political strife, forced repatriation, confiscatory taxes, exchange controls and, most recently, risks associated with litigation arising out of malpractice or negligence suits or from vexatious litigants.

Such a trust may be invaded by the settlor's creditor if it can be shown that transfers into the trust lacked legal propriety. Gibraltar has sought to reduce the uncertainties that can arise when determining propriety by shifting the focus to the objective test of solvency contained in the Insolvency Act 2011, Section 419A.

Under provisions contained in the Bankruptcy (Register of Dispositions) Regulations 1990, an application may be made to register the trust by an approved trustee who has demonstrated adequate financial and administrative resources and professional indemnity insurance. Thereafter, the trustee must be able to show that due and sufficient inquiry was made to establish the propriety of the disposition and the solvency of the settlor at the time it was made. The registration of the disposition is renewable annually on payment of an annual fee (currently GBP113). This higher degree of certainty makes Gibraltar a favorable location for setting up asset protection trusts.

Purpose trusts

The Purpose Trusts Act 2015 provides for the creation and enforcement of trusts whereby the trustees hold property on trust to carry out a specific purpose that is not of a charitable nature. Under this legislation, a purpose trust must be established with purposes for which there is sufficient certainty that those purposes are capable of being carried out. At least one trustee must be a licensed trustee. The legislation sets up powers that a trustee will need, such as the discretion to formulate the means by which to give effect to and achieve the purpose or purposes of the trust. The bill also provides for the disapplication of the rule against perpetuities.

Taxation of trusts in Gibraltar

As from 1 January 2011, a trust is tax resident in Gibraltar if one or more of the beneficiaries are ordinarily resident in Gibraltar, or the class of beneficiaries may include an ordinarily resident person or the issue of an ordinarily resident person. The residency status of the trustees or settlor is, in itself, not relevant.

An individual who has "Category 2" tax status, or the spouse or child of such an individual (provided the individual has elected to include their spouse or child under the Category 2 rules), is not deemed to be tax resident in Gibraltar for the purposes of determining the taxation of a trust or of the beneficiaries.

A trust that is not tax resident in Gibraltar is taxable only on income that accrues in or is derived from Gibraltar. By contrast, a trust that is ordinarily resident in Gibraltar is taxable on its worldwide income (subject to the income being taxable in nature, and to any exemptions that may apply to such income). As for individuals, non-trading interest income, dividends from listed companies or that represent a distribution of income that was not taxable in Gibraltar when such income was generated by the underlying company, non-Gibraltar property-based rental income and capital gains are not taxable in Gibraltar.

The capital of the trust is not liable to tax in Gibraltar.

Trusts of a public nature are completely exempt from income tax provided that the profits from any trade or business are only used for the purposes of the trust, and either this trade or business is exercised in the cause of carrying out a primary purpose of the trust, or the work is mainly carried out by the beneficiaries of the trust.

Trusts are taxed at the rate of 15% (prior to 1 July 2024 – 12.5%) on any taxable income.

Payment of tax

The trustees of a trust are required to pay any tax due from the trust under self-assessment. Payments on account are due by 31 January and 30 June, respectively, in the year of assessment. Any remaining balance is payable by 30 November following the end of the tax year.

Filing requirements

The trustees of a trust with assessable income are required to file a trusts tax return by 30 November. Trusts with assessable income must draw up their accounts to 30 June each year.

Private foundations

The Private Foundations Act 2017, which was enacted in April 2017, provides a legal framework for foundations in Gibraltar. The act also provides a mechanism for overseas foundations to be registered in Gibraltar. Provisions of the act include the following:

- A foundation is an entity with a separate legal personality. As such, it can hold and deal with property in its own name as the absolute and beneficial owner.
- The Foundation Charter and Foundation Rules establish the foundation, set out its purposes and rules for its administration, and provide details of the beneficiaries and guardian.
- Details of the foundation are filed at Companies House Gibraltar, which maintains a Register of Foundations.
- The Founder provides the initial assets as an irrevocable endowment. He or she may reserve certain powers for himself or herself, such as the ability to appoint or remove the Guardian or Councillors or to amend the Constitution of the foundation.
- The Foundation Council manages the foundation and makes distributions to the beneficiaries.
- The Council comprises a number of Councillors, which must include a Gibraltar resident company that is licensed as a Professional Trustee in Gibraltar.
- Beneficiaries may either be enfranchised or disenfranchised. The former is entitled to copies of the accounts and other documents relating to the foundation.
- A guardian may be appointed to provide protection for the beneficiaries. In certain cases — for example, if there are no designated beneficiaries or there are more than 50 beneficiaries — a guardian is required to be appointed.

Taxation of foundations and beneficiaries

The Income Tax Act 2010 sets out the basis for the taxation of foundations and their beneficiaries. The tax treatment in Gibraltar closely follows the principles applied to the taxation of trusts and their beneficiaries:

- A foundation registered under the Private Foundations Act 2017 is resident in Gibraltar, unless persons who are ordinarily resident in Gibraltar and the issue of such persons are irrevocably excluded from benefit in respect of the foundation.
- A foundation resident in Gibraltar is generally taxable on a worldwide basis (although, as for trusts, most savings-type income and rental income from overseas property is not taxable in Gibraltar).
- The applicable tax rate for foundations is 15% (prior to 1 July 2021 — 12.5%), which is in line with the rate for trusts and companies.
- A foundation that is not resident in Gibraltar is taxable only on chargeable income that is accrued in or derived from Gibraltar (most savings-type income is, in any case, not taxable).
- Nonresidents of Gibraltar are not taxed in Gibraltar on their income as a beneficiary of a foundation.
- Beneficiaries who are ordinarily resident in Gibraltar are taxable on:
  a. Distributions received from the foundation when the underlying income was taxable on the foundation (a tax credit will be given in respect of the tax suffered by the foundation on that income)
  b. The benefit derived by the beneficiary from the use of assets that are owned or leased by the foundation or by a person controlled by the foundation
  c. Any loan made by the foundation to a beneficiary or to any person connected with the beneficiary

8. Grants

There are no grants in Gibraltar.

9. Life insurance

The proceeds to an individual from a life insurance policy are not assessable to tax in Gibraltar.

Life insurance relief is available to taxpayers who are taxed under the allowance-based system,[1] as follows: premiums or contributions (or both) payable during the year of assessment are allowable as a deduction subject to certain restrictions.

The deduction is given with respect to premiums payable by the claimant for an insurance contract on the claimant's or spouse's life. However, relief is restricted to:

- One-seventh of the assessable income of the taxpayer
- 7% of the capital sum assured at death

10. Civil law on succession

Succession

Legislation on succession within Gibraltar is covered by the Wills Act 2009 (modeled upon the United Kingdom Wills Act 1963) and by the Gibraltar Administration of Estates Act.

Forced heirship

There are no compulsory inheritance rules, nor forced heirship rules in Gibraltar. However, in the event of an intestacy, statutory provisions of the Gibraltar Administration of Estates Act will apply.

Matrimonial regulations and civil partnerships

There is no concept of matrimonial or community property in Gibraltar.

[1] Individual taxpayers may choose between either the gross-income-based system or the allowance-based system of taxation. Under the latter, higher tax rates generally apply, but there are more allowances available. Life insurance relief is not available to taxpayers who choose the gross-income-based system.

Intestacy

A deceased person will be deemed to have died intestate if he/she has not made any will, or if an attempted will is deemed to be invalid/incapable of being proved. In such instances, the statutory rules of intestate succession contained in the Administration of Estates Act will automatically apply. In such an event, usually the next of kin (or, if they decline, an appropriate person appointed by the Supreme Court) may apply for a grant of Letters of Administration so as to collect in assets, settle liabilities and administer the estate. Note that an appropriate person is dictated by reference to the legislation but could be a creditor when an estate is insolvent or, for example, when cooperation is needed in realizing the assets of a complex estate with significant liabilities. There is a scale of fees payable upon application, although no fee is payable upon an estate with a value of less than GBP20,000. Net assets must thereafter be distributed in accordance with the sequential criteria laid down within the Administration of Estates Act.

Generally, upon intestacy, a surviving spouse and children will share the estate. In the absence of immediate next of kin, the act proscribes the entitled persons and the proportions they will share if several.

Probate

If a deceased person has left a will, this must be submitted with an application for Grant of Probate to the Supreme Court for formal validation. The court will issue a Grant of Probate appointing one or more executors; either the persons named in the will or, if they decline, an appropriate person — usually a lawyer, trustee or family member. The same fee scale as an application to the Court for the administration of an intestacy will apply.

It should be noted that presently there are no death duties payable on estates in Gibraltar.

11. Estate tax treaties

A double taxation agreement between Gibraltar and the United Kingdom entered into force in 2020. However, it does not cover inheritance or estate tax. Gibraltar has no tax treaties with any other jurisdiction.

Greece

EY contacts:

Office

EY
8B Chimarras Str
15125, Maroussi, Athens
Greece

Stefanos Mitsios
stefanos.mitsios@gr.ey.com
+30 210 288 6363

Konstantina Galli
konstantina.galli@gr.ey.com
+30 210 288 6355

Manos Tountas
manos.n.tountas@gr.ey.com
+30 210 288 6387

At the time of writing, it was expected that important amendments in Greek inheritance law would be introduced at some point in 2025 or 2026. Because of this (and possibly also in view of additional tax law amendments to be enacted in 2025/26), readers should obtain updated information.

1. Types of tax

Currently, the Greek legislation provides for inheritance tax or donation tax on assets transferred through inheritance or donation.

1.1 Inheritance tax

All property located in Greece, regardless of ownership, and any movable property located abroad that belongs to a Greek citizen or to any other person domiciled in Greece are subject to Greek inheritance tax. Generally, Greek inheritance tax is levied on every form of property that is transferred from the deceased due to a "causa mortis" acquisition (inheritance, bequest of a life insurance) on the basis of the following principles:

- The principle of territoriality, according to which Greek inheritance tax is levied on every asset that is found in Greece.
- The principle of citizenship, according to which inheritance tax is levied on every movable asset that belongs to a Greek citizen and found outside Greece, wherever the person might have his or her residence while the individual was alive, unless if the testator before his or her death was living outside Greece for 5 or more consequent years. Hence, movable assets located abroad and belonging to a Greek citizen who was established outside Greece for at least 5 consecutive years are exempt from Greek inheritance tax.
- The principle of domicile, according to which inheritance tax is levied on the moveable assets of a foreign national located outside Greece, if said individual had his or her domicile in Greece at the time of death.

1.2 Gift tax

Donations of the below would trigger a donation tax liability in Greece:

- Any movable or immovable property situated in Greece (regardless of the nationality or residence of the donor and of the beneficiary)
- Any movable property of a Greek national situated abroad (regardless of the nationality or residence of the beneficiary)
- Any movable property of a foreign national situated abroad, which is being gifted/donated to a Greek national or to foreign national who resides in Greece

1.3 Real estate transfer tax

The real estate transfer tax is calculated on the transfer sales price/value and burdens the buyer of the real estate property. The value of the real estate shall be calculated depending on the system applied in the specific location for determining the value of real estate: (a) where the system of objective evaluation of property is applicable, the above tax shall be calculated according to the price/value attributed to the respective real estate on sale by reference to the objective value of the particular land plot, given that the law determines the minimum price/value for each square meter (m2) of the respective land plot (this serves as a guide to calculate the tax due depending on the surface of the respective real estate on sale); and (b) where no objective property evaluation system is applicable, the tax authority shall take into account comparative data (i.e., financial data, such as the sale prices from sale transactions made on adjacent properties) to calculate the value of the particular land and the tax due. However, if the selling price is higher than the objective value, real estate transfer tax shall be applied on the selling price.

It is also noted that an additional 3% burden is imposed on the payable amount of the real estate transfer tax as a duty in favor of the local municipality (Law 3033/1954, Article 37); hence, the total tax liability is set at 3.09% – moreover, the prospective buyer should also take into consideration the remuneration of the notary public and of the lawyer who will sign the contract as additional burdens.

A number of exceptions may be applicable from the above real estate transfer tax liability – most important of which is the exemption for an individual purchasing the property as his/her "first residence" (typically granted to Greek tax residents with no ownership of property to be used as their first primary residence in Greece). Such exemption is applied up to a certain threshold of the transfer value. Further, similar exemptions may apply, e.g., where the prospective third-country national can prove the person's intention to reside permanently in Greece based on a "long-term" residence permit.

1.4 Endowment tax

Currently there is no "wealth tax" applicable in Greece. However, real estate property tax (ENFIA) is imposed on real estate property rights found on Greek land regardless of the nationality and tax residency of the property right owner.

2. Who is liable?

2.1 Inheritance tax

The beneficiary (heir, legatee, etc.) is liable for filing of the inheritance tax (IHT) return and for payment of inheritance tax according to the IHT assessment issued by the tax authorities.

2.2 Donation tax

As a general rule, the donation tax return is filed jointly by both donor and beneficiary (although, in some very exceptional cases, submission of the donation tax return exclusively by the beneficiary has been accepted). This requirement for joint filing remains in existence, even after the official introduction of the electronic filing of donation tax returns effective 1 January 2023 (see below "5. Filing procedures").

The beneficiary of the donation is liable for payment of donation tax.

3. Rates

As a general rule, the inheritance tax rates depend on the relationship of the beneficiary to the deceased. The rates are higher for more distant relatives and unrelated persons as follows:

Inheritance tax rates

Category A

(Spouse,* children,* parents, grandchildren)

Estate band (EUR)	Tax rate (%)	IHT/estate band (EUR)	Taxable assets (EUR)	Corresponding IHT (EUR)
0-150,000	-	-	150,000	-
150,001-300,000	1	1,500	300,000	1,500
300,001-600,000	5	15,000	600,000	16,500
Above 300,000	10	-	-	-

* Where the heir is the underage child of the deceased (or the wife of the deceased, provided that the marriage lasted for a minimum of five years), an exemption from inheritance tax up to a value of EUR400,000 of estate is provided. A 5% IHT rate applies for the EUR400,000-EUR600,000 income band, and a 10% IHT rate applies for estate in excess of the EUR600,000 threshold.

Category B

(Siblings, nephews and nieces, aunts and uncles, sons-in-law, daughters-in-law, parents-in-law, grandparents, great-grandchildren, great-grandparents, etc.)

Estate band (EUR)	Tax rate (%)	IHT per estate band (EUR)	Taxable assets (EUR)	Corresponding IHT (EUR)
0-30,000	-	-	30,000	-
30,001-100,000	5	3,500	100,000	3,500
100,001-300,000	10	20,000	300,000	23,500
Above 300,000	20			

Category C (all other parties)				
Estate band (EUR)	**Tax rate (%)**	**IHT per estate band (EUR)**	**Taxable assets (EUR)**	**Corresponding IHT (EUR)**
0-6,000	-	-	6,000	-
6,001-72,000	20	13,200	72,000	13,200
72,001-267,000	30	58,500	267,000	71,700
Above 267,000	40	-	-	-

On certain conditions Greece may provide a tax credit against the Greek IHT due (where applicable) for inheritance tax paid in another country on movables if applicable.

Generally, the above rates apply also in connection to donation tax. It is noted that cash donations are subject to flat donation tax rates that vary from 10% to 40% depending on the relationship between donor and beneficiary. See below exemptions and reliefs.

4. Exemptions and reliefs

The law introduces several exemptions from inheritance tax and donation tax.

Inheritance

Local legislation provides for some exemptions from inheritance tax, most notable of which are for rights of the individual (deceased person) on:

(a) Monetary deposit (cash and investment accounts) held in a joint bank account of a Greek bank or foreign bank (on certain conditions)
(b) Shares in maritime companies (including shares in holding companies with participations in ship-owning companies) owning vessels under Greek or foreign flag, provided that the vessels have tonnage exceeding 1,500 gross tonnage
(c) Vessels under Greek or foreign flag with a tonnage exceeding 1,500 gross tonnage
(d) Moveable assets located outside Greece belonging to a Greek national who has been resident outside Greece for 10 or more consecutive years
(e) Real estate property intended to be used as primary residence of the beneficiary child or surviving spouse of the deceased (thresholds apply)
(f) Rights inherited by the Greek state are exempt from inheritance tax
(g) Rights inherited by ecclesiastical institutions and non-for-profit organizations (such as charities, educational institutions) are not exempt anymore from inheritance tax, but are subject to a flat IHT rate, currently 0.5%

With effect as of 1 October 2021, a donation tax-free threshold has been introduced for the first EUR800,000 of assets donated per beneficiary for Category A individuals. For example, on certain conditions a parental donation of asset(s) by a parent to the child is exempt from donation tax for the first EUR800,000 and a 10% donation tax is imposed where this threshold has been surpassed (= 10% of the part exceeding the EUR800,000 asset value threshold).

Donation

As a general rule, the above (e) and (f) exemptions and the advantageous tax treatment in connection to persons falling under case (g) apply also in relation to donation tax. An exemption from donation tax may apply on certain conditions in cases of donations of moveable property located abroad that have not been acquired during the last 12 years in Greece by Greek citizens. In addition, for Greek citizens who have been living abroad for at least 20 consecutive years and have not relocated to Greece at the time of the donation, an exemption from donation tax applies in connection to the donated movable assets that are located abroad at the time of the donation.

5. Filing procedures

Inheritance

Generally, a nine-month filing deadline applies; the filing deadline is 12 months if the deceased person at the time of death or the beneficiary were residents outside Greece. The date when the deadline starts to run depends (among other things) on whether the respective assets are distributed to the heirs based on a will or based on the rules of intestacy.

Donation

Generally, a six-month filing deadline applies. In case of donations effected by means of a notarial deed, the donation tax return is filed before the conclusion of the notarial deed.

Generally, inheritance tax returns and donation tax returns are filed electronically.

In the case of donation tax returns, the donor and beneficiary are expected to file the donation tax return jointly. Practically, and after the official launching of electronic filing for donation tax returns effective 1 January 2023, as a general rule, the donation tax return is electronically filed (either by the donor or by the beneficiary), and the other party is expected to approve the donation tax return electronically; approval is a requirement for the filing to be considered complete.

6. Assessments and valuations

Complex rules apply in connection to the valuation of assets that are subject to inheritance or donation tax and depending on the nature of the asset, especially in relation to the valuation of non-listed shares or other titles donated or inherited or real estate property depending on whether the respective property is located in a region where objective values apply.

7. Grants

Grants (*κληροδοσίες*) are also subject to inheritance tax. The beneficiary of the grant is required to file an inheritance tax return and account for inheritance tax on the basis of rates applicable depending on their relationship with the deceased person. In some cases (e.g., non-for-profit organizations that receive grants on the basis of the deceased's will) a preferential IHT rate would apply (0.5%).

8. Life insurance

Bequests of life insurance may be subject to donation tax or inheritance tax, depending on whether the beneficiary is specifically mentioned in the life insurance contract.

9. Civil law on succession

Greek civil law introduces specific rules in connection to forced heirship, matrimonial regimes and civil partnerships, intestacy, and hereditary funds. Important amendments in Greek inheritance law are expected during 2025/26; readers should obtain updated information.

9.1 Forced heirship (*νόμιμη μοίρα*)

Children of any deceased person, spouse and parents of the deceased must inherit at least one-half of the share each of them is entitled to inherit by law, irrespective of any testamentary provisions.

9.2 Matrimonial regimes and civil partnerships (*αξίωση συμμετοχής στα αποκτήματα*)

The right of inheritance that the surviving spouse of the testator has by will or by law should not diminish the spouse's right to the portion of property gained over a marriage and deemed to be matrimonial property.

9.3 Intestacy (*εξ αδιαθέτου διαδοχή*)

If no provisions are made in prospect of death, a complex statutory order of intestate inheritance is applied to all persons covered by Greek inheritance law. The heirs-in-law (individuals only) include children of the deceased, his or her spouse and parents, brothers and sisters, and other relatives. All of them are divided into five priorities (categories of heirs).

The heirs of each next category inherit if there are no heirs of the preceding categories or if all of them have refused inheritance.

The heirs in the higher priorities inherit statutory intestate shares preferentially to the heirs in the lower priorities. The sizes of these shares depend on the number of heirs involved in the inheritance. In the absence of heirs-in-law, then the estate is declared heirless and passes to the Greek State (sixth priority/category).

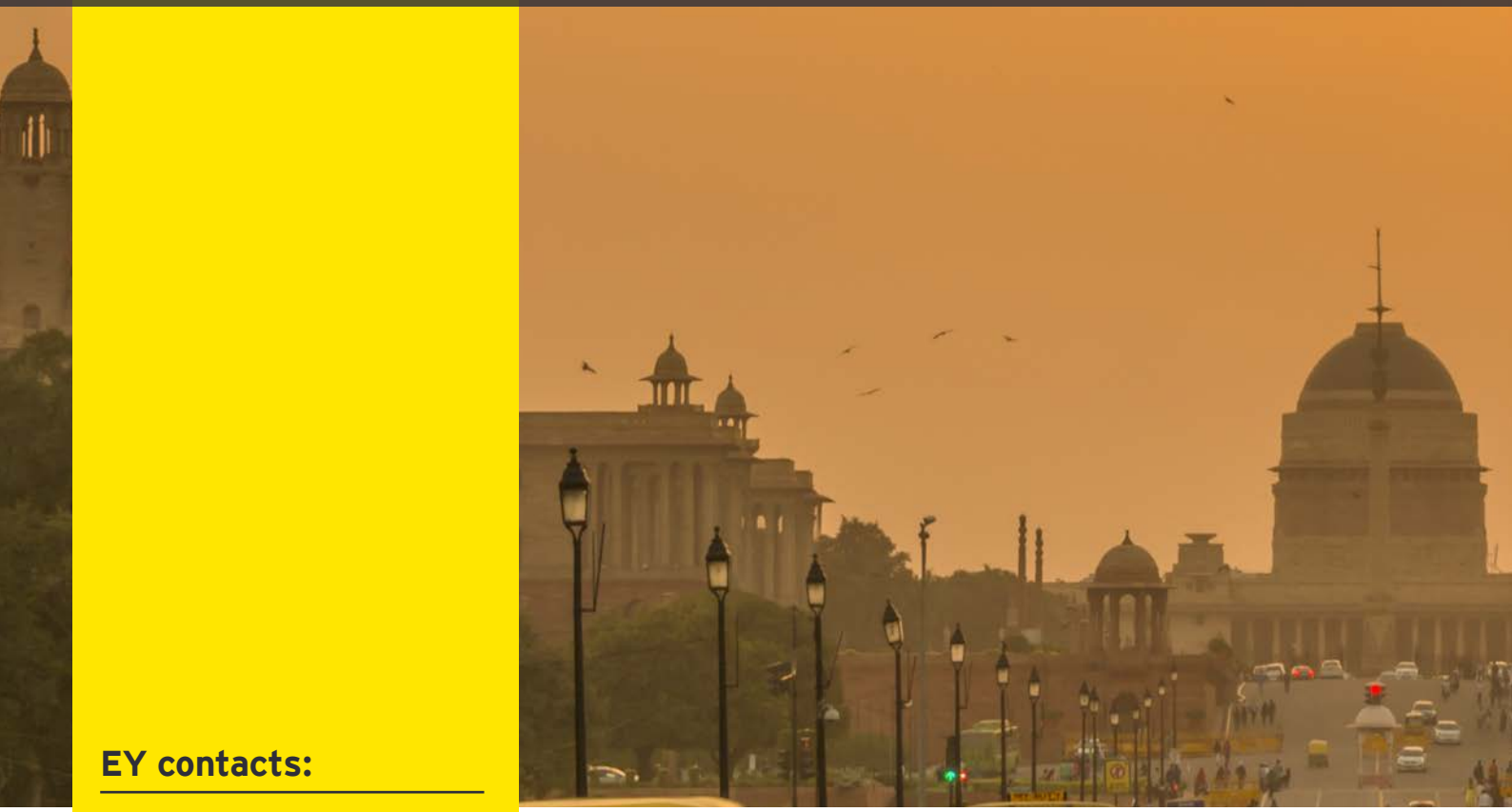
The main categories of heirs are as follows:

- First category heirs: Children (or, if they have predeceased, grandchildren) of the deceased and surviving spouse of the deceased
- Second category heirs: Parents, siblings (full and half brothers and sisters) or children/grandchildren of predeceased siblings and surviving spouse of the deceased
- Third category heirs: Grandparents of the deceased (or their children and grandchildren if they are predeceased) and the surviving spouse of the deceased
- Fourth category heirs: Great-grandparents of the deceased and surviving spouse of the deceased
- Fifth category heirs: surviving spouse of the deceased
- Sixth category heir: the Greek State

10. Estate tax treaties

Greece has entered into estate tax treaties with Germany, Italy, Spain and the United States to prevent double-taxation.

India



EY contacts:

Mumbai

EY
14th Floor, The Ruby
29, Senapati Bapat Marg
Dadar (West) Mumbai 400028
Maharashtra
India

Pranav Sayta
pranav.sayta@in.ey.com
+91 226 192 0870

Ajay Agashe
ajay.agashe@in.ey.com
+91 226 192 3874

Pavitra Shetty
pavitra.shetty@in.ey.com
+91 98861 39347

1. Types of tax

1.1 Inheritance tax

There is no estate duty (inheritance tax) payable in India. Estate duty on property that is passed on to the legal heirs on death of a person was removed in 1985. Prior to removal, estate duty was payable on a slab basis ranging approximately from 7.5% to 40% of the principal value of the estate. In 2012, this topic had gained prominence as there were news reports that the Indian government was thinking of reintroducing this levy, but no formal proposal has been tabled before the Parliament.

1.2 Gift tax

Until 1998, gift tax was levied under the Gift-Tax Act, 1958, on donors in India on transfer of any existing movable or immovable property without

consideration, at the rate of 30%. In 2004, taxation on transfer without consideration or inadequate consideration (together referred to as gift) was reintroduced in the form of income tax in the donee's hands on receipt of gift, albeit with certain exceptions. However, the tax exemption to the transferor on transfer of property by way of gift continues.

The following specified gifts, when received by any individual, company, trust, partnership firm or limited liability partnership, are taxable at the applicable rates (see Section 3):

- Any sum of money received without consideration
- Any other property as mentioned below, received without consideration or for consideration less than its fair value:
  - Immovable property
  - Shares and securities
  - Jewelry
  - Archaeological collections
  - Drawings
  - Paintings

- Sculptures
- Any work of art
- Bullion

In cases involving gifts of property, the difference between the fair value and the consideration paid by the donee, if any, is taxable for the donee. The methodology for determining the fair value of the property has also been specified under income tax law.

Certain categories of gifts are exempt from income tax for the donee, which are listed below:
- Gift received of value not exceeding INR50,000
- Gift received from relatives (such as spouse, brother or sister of individual, parents of individual or spouse, etc.)
- Gift received on occasion of marriage
- Gift received from will or inheritance
- Gift received in contemplation of death of the donor
- Gift received from an individual by a trust created solely for the benefit of the relatives of such individual
- Gift received from or by any registered charity trust or institution

On the subsequent transfer of the asset received by the donee as a gift, the difference between the sale consideration and the cost of such asset is taxable in the hands of the donee as capital gains under income tax law. The cost of acquisition would differ in the following two scenarios:
- Where the donee had paid income tax on receipt of gift — the cost of acquisition would be the fair market value (FMV) of such asset on which the donee had paid income tax.
- Where the donee had not paid income tax on account of such gift being exempt — the cost of acquisition would be the same as the cost of acquisition of such asset in the hands of the previous owner (i.e., the donor).

1.3 Real estate transfer tax

From the estate and succession perspective, no real estate transfer tax is levied in India. However, transfer of real estate in India may be subject to income tax and stamp duty (discussed below in greater detail).

1.4 Endowment tax

India does not levy endowment tax.

1.5 Transfer duty

Transfer of movable and immovable property is subject to the following duty and tax:

Stamp duty

Stamp duty is paid in respect of a transaction executed through a document or instrument under the provisions of the Indian Stamp Act of 1899 (central law governing the country) or the State Stamp Acts. Stamp duty is applicable on transfer of movable and immovable property and also on various other transactions, e.g., lease, conveyance, mortgage, partitions, transfers and order passed by the National Company Law Tribunal (NCLT) to sanction a scheme of arrangement.

Payment of accurate stamp duty on instruments gives them legality. Such instruments have evidentiary value and can be admitted as evidence in a court of law.

The rate of duty is generally calculated on an ad valorem basis depending on the nature of the instrument and the state where it is executed. Typically for immovable property, this duty is payable in the state where the property is located. The rates of stamp duty on instruments related to the transfer of immovable property vary from 3% to 10% on the FMV of the property.

Stamp duty on transfer of shares/securities of an Indian company is levied at a rate of 0.015% on the value of the transaction/fair market value. Exemption from stamp duty for transfer of shares/securities under the depository mechanism has been withdrawn.[1]

No stamp duty is required to be paid for executing a will or a codicil. Also, no stamp duty is levied on inheritance of property by the legal heirs. Generally, stamp duty is payable on settlement of property into a trust and distribution of the assets of the trust to the beneficiaries.

1.6 Net wealth tax

The Finance Act 2015 abolished the levy of wealth tax in India with effect from 1 April 2016. This means that the return of wealth need not be filed for the financial year 2015-16 and thereafter.

2. Who is liable?

As mentioned above, there is no inheritance tax in India. Regarding income tax, the extent and scope of Indian income tax liability depend on the residential status of the individual. For income tax purposes, an individual may be resident, nonresident or resident but not ordinarily resident.

2.1 Residency

An individual is treated as resident in a year if present in India:

- For 182 days or more during the year (1 April to 31 March)
  Or
- For 60 days or more during the year and 365 days or more during the preceding 4 years

An Indian citizen who leaves India as a member of the crew of an Indian ship or for the purpose of employment would be treated as a resident if such person is in India for 182 days or more during the year.

An Indian citizen or person of Indian origin who does not reside in India and comes to India for a visit would be considered to be resident if such person is in India for:

- 120 days or more, if such person has Indian-sourced income exceeding INR1.5 million during the year
  Or
- 182 days or more

An Indian citizen having total income from Indian sources exceeding INR1.5 million shall be deemed to be resident in India if such person is not liable to tax[2] in any other country/territory by virtue of domicile, residence or any other similar criteria. Such individual would be considered to be resident but not ordinarily resident.

Individuals not falling under any of the above criteria are treated as nonresidents.

---

[1] These amendments are effective from 1 July 2020.

[2] The Finance Act 2021 has inserted the definition of the term "liable to tax" in relation to a person and with reference to a country, to mean that there is an income-tax liability on such person under the law of that country for the time being in force and includes a person who has subsequently been exempted from such liability under the law of that country.

A resident who was not present in India for 730 days during the preceding seven years or an individual who is nonresident in 9 out of 10 preceding years is treated as resident but not ordinarily resident. An Indian citizen or a person of Indian origin who does not reside in India, comes to India for a visit and has Indian-sourced income exceeding INR1.5 million during the year is also treated as resident but not ordinarily resident if the individual stays in India more than 119 days but less than 182 days during the year.

Residents' worldwide income is taxable. Nonresidents are taxed only on income that is received in India or that arises or is deemed to arise in India. A person who is resident but not ordinarily resident is taxed like a nonresident but is also liable for tax on income accrued abroad if it is from a business controlled in or a profession set up in India.

2.2 Domicile

Taxation in India is not governed by rules of domicile.

3. Rates

Individuals are taxed on income arising in a financial year (1 April to 31 March) based on the tax regime the individuals opt into, at the specified slab rates, with the highest slab being 30%. Where the income exceeds INR5 million, there is a surcharge levied depending on the income slab on the base tax rate, which ranges from 10% to 25% under the new tax regime[3] and 10% to 37% under the old tax regime. The surcharge is capped at 15% for dividends and certain capital gains. Additionally, a cess of 4% on the total tax liability (including surcharge) is applicable.

From 1 April 2020,[4] dividends received by individuals from domestic companies will be taxable as per specified slab rates, though concessional surcharge rates will apply.

4. Exemptions and reliefs

India does not have any inheritance tax.

5. Filing procedures

As mentioned above, there is no inheritance tax in India. With respect to income tax, all income is taxed using a fiscal tax year from 1 April to 31 March. All taxpayers, including nonresidents, must file a return of income in India if they have income that is subject to tax in India.

Resident and ordinarily resident individuals who have an asset (including a financial interest in an entity) located outside India or have signing authority in an account outside India must file a return even if they do not have any taxable income. They are also required to provide details of foreign bank accounts and assets located outside India in their return of income.

Nonresidents are subject to the same filing requirements as residents but with lesser disclosure requirement. However, nonresident citizens (including persons of Indian origin) who have only certain types of investment income or long-term capital gains on foreign-exchange assets need not file returns if the required tax is withheld at source. Nonresidents are subject to assessment procedures in the same manner as residents.

[3] The Finance Act 2023 has capped the surcharge rate for individuals under the new tax regime at 25%.

[4] The Finance Act 2020 abolished the Dividend Distribution Tax effective 1 April 2020 and moved to the classical system of taxation wherein dividends are taxed in the hands of the investors.

6. Assessments and valuations

Upon the death of an individual, his or her income till the date of death is taxable for his or her legal representative as it would have been taxable for the deceased had he or she not died. The liability of a legal representative is limited to the extent to which the estate is capable of meeting the liability.

The income from the estate of a deceased person (post-death but before distribution) is also chargeable to tax in the hands of the executor(s) as a representative assessee, prior to its distribution to the legal heirs. Such tax paid can be recovered by the executor from the estate of the deceased.

7. Trusts, foundations and private purpose funds

The Indian Trusts Act of 1882 governs the constitution of trusts, which can be set up as either:

- Discretionary trust: where the trustee has discretion with respect to income or corpus on how to distribute (whether, when and how much) and to decide on the extent of distribution to each beneficiary
  Or
- Determinate trust: where the settlor fixes the entitlement of the beneficiaries, and the trustees have little or no discretion

Taxation of trust

The rules governing taxation of a trust are quite complex. The taxability of a trust is dependent on the residential status of a trust, which is a fact-specific exercise.

The income of a trust is taxable for the trustee as a representative assessee of the beneficiary. However, in certain cases, tax authorities may tax either the trustees or the individual beneficiary directly.

Taxability on settlement of property in a trust

Settlement of property in a trust is not taxable for the settlor. Since Indian tax law envisages taxability in the hands of the recipient on receipt of a gift, there may be tax implications for the trust or beneficiary on settlement of property in a trust, depending on the facts of the case.

Taxability of income earned or generated by a trust

The Indian tax law governing taxability of income earned by a trust depends on the nature of trust. In case of a discretionary trust, income is taxable at maximum marginal rate; whereas in case of a determinate trust, income is taxable at tax rates applicable to each beneficiary.

Taxability on distribution by a trust to the beneficiaries

Typically, at the time of distribution by the trust to the beneficiaries, no tax should arise. Also, arguably, there should not be any taxation in the hands of beneficiaries on receipt of a trust fund/corpus.

Exchange control regulations governing trust

While India allows current account convertibility, full capital account convertibility is not allowed. Various restrictions are imposed on cross-border transactions. Due to possible complexity, attention should be given to settlement of trusts involving a nonresident.

8. Grants

There are no death grants in India.

9. Life insurance

Premiums paid for securing a life insurance policy for oneself, a spouse or children that do not exceed INR150,000 are allowed as deductions while computing the taxable income of an individual. Any sum received under a life insurance policy on death of a person is tax-exempt, subject to the satisfaction of certain conditions.

A unit-linked insurance plan (ULIP) is a multifaceted product issued by insurance companies that combine insurance coverage and investment exposure in a single offering. The Finance Act 2021 has withdrawn the exemption in respect of ULIP issued on or after 1 February 2021 if the aggregate premium amount exceeds INR250,000. It has also introduced taxation of said proceeds from ULIP issued on or after 1 February 2021 under the head capital gains.

10. Civil law on succession[5]

10.1 Estate planning

Trusts are often used as estate and wealth planning and asset protection vehicles. India recognizes testamentary and living trusts. Trusts can be oral or written. However, a trust in which immovable property is settled must be compulsorily written and registered.

Wealthy or internationally mobile Indian families use trusts in addition to conventional wills to facilitate the devolution of assets and to mitigate *inter alia* issues of probate and asset protection.

10.2 Succession

The rules of succession differ for different religions:

- Succession to the property of Hindus is governed by the provisions of the Hindu Succession Act 1956.
- Succession to property of Muslims is governed by Muslim law, which is not yet codified but is based on religious texts (Sunni and Shia laws).
- Succession of persons other than Hindus, Muslims, Buddhists, Sikhs or Jains is governed by the Indian Succession Act 1925.

10.3 Forced heirship

There is no concept of forced heirship in Indian succession laws in respect of self-acquired properties. However, certain laws, such as Muslim law, are exceptions to this rule.

[5] Based on information available in the public domain.

10.4 Matrimonial regimes and civil partnerships

The Indian law does not recognize civil partnership. Matrimonial rules vary depending on religion. Generally, prenuptial agreements are not recognized under the Indian legal system.

10.5 Intestacy

Under the Indian Succession Act, the order of succession that is prescribed for distribution of property upon death of the deceased who dies intestate is as follows:

- If there is no spouse or lineal descendant, the estate passes to the state according to the doctrine of escheat.
- If the deceased leaves behind a spouse and lineal descendants, the spouse will be entitled to one-third of the estate, while the remaining two-thirds will be divided between the lineal descendants.
- If the deceased leaves a spouse and persons who are kindred to him or her, but no lineal descendant, the spouse inherits half of the estate and those who are kindred shall inherit the other half.
- If the deceased leaves behind a spouse, but no lineal descendants or persons who are related to him or her, then the whole estate passes to the spouse.

Similarly, the Hindu Succession Act 1956 and Muslim law also contain rules for distribution of property where a person dies intestate.

10.6 Probate

A will for which no probate has been obtained cannot be used to prove that any person named therein is entitled to the estate of the testator. However, the absence of probate does not debar the executor from dealing with the property of the deceased, e.g., collecting assets or selling property to pay debts.

11. Estate tax treaties

India has entered into an inheritance tax treaty only with the United Kingdom. Under the treaty, inheritance tax would not be imposed in the United Kingdom on the death of an individual who is not domiciled in the United Kingdom at the time of his death but is domiciled in India, in respect of his assets situated outside the United Kingdom.

Indonesia

EY contacts:

Jakarta

EY
Indonesia Stock Exchange Building
Tower 1, 14th Floor
Jl. Jend. Sudirman Kav. 52-53
Jakarta 12190
Indonesia

Bambang Suprijanto
bambang.suprijanto@id.ey.com
+62 21 5289 5060

Kartina Indriyani
kartina.indriyani@id.ey.com
+62 21 5289 5240

Benjamin Koesmoeljana
ben.koesmoeljana@id.ey.com
+62 21 5289 5030

1. Types of tax

1.1 Inheritance tax

Indonesia does not levy inheritance tax since inheritance is not taxable in Indonesia.

1.2 Gift grant tax

Indonesian income tax law stipulates that grants or gifts from the parent directly to the children in the same blood line (or vice versa), and grants or gifts received by religious, educational or social organizations, including foundations, cooperatives or individuals who carry on micro and small-scale enterprise, as stipulated by the Minister of Finance, are not taxable as long as there is no business, employment/work, ownership or control relationship among the parties concerned.

1.3 Real estate transfer tax

The transfer of real estate (i.e., land and/or building) is subject to a final tax with the following rate:

- 1% of the gross transfer value (tax base) for the transfer of a low-cost house (*rumah sederhana*) and low-cost flat (*rumah susun sederhana*) by a taxpayer whose main business is the transfer of land and/or building
- 0% of the gross transfer value (tax base) for the transfer of land and/or building for public interest to the government
- 2.5% of the gross transfer value (tax base) for transfer of land and/or building other than those specified above

The gross transfer value (tax base) refers to:

a. Value based on decision of the authorized government official, in the event of a transfer of rights to the government
b. Value based on minutes of auction (*risalah lelang*), in the event that the transfer of rights is in accordance with the auction regulation (*Vendu Reglement Staatsblad* Year 1908 Number 189 alongside its amendment(s) thereto)
c. Value that should be received or earned, if the transfer of rights to land and/or building is made between related parties, other than transfers as stipulated in a and b above
d. Value that is received or earned, in the event that transfer of rights to land and/or building is not made between related parties, other than the transfers as stipulated in a and b above
e. Value that should be received or earned based on market value, in the event that the transfer of rights to land and/or buildings is conducted by exchange, waiver of rights, transfer of rights, grant, inheritance or other manners as agreed upon by the parties

1.4 Endowment tax

There is no endowment tax in Indonesia.

1.5 Acquisition duty

A land and building rights acquisition duty of 5% (varies by region, maximum 5%) is payable on the tax base by a person who obtains rights to land or a building. The tax base refers to:

a. Transaction price, in the event of a sale and purchase
b. Transaction price as mentioned in the minutes of auction (*risalah lelang*), in the event of an auction sale
c. Market price (for transactions other than a and b above)
d. Sales value of taxable object (nilai jual objek pajak (NJOP)) in the case that the abovementioned tax base cannot be identified or lower than the NJOP (i.e., the tax object sale value) used to determine the land and building tax in the year of acquisition

To compute the land and building rights acquisition duty, the duty rate is multiplied by the abovementioned tax base subtracted by the allowable tax-free threshold (nilai perolehan objek pajak (NPOP)) which varies by regions with a minimum of IDR80 million (for inheritance (hibah wasiat) or will (waris), a minimum of IDR300 million) for the taxpayer's first right (*hak pertama*) in the area where the duty is owed. Both thresholds will be further determined by regional government regulation. A number of exemptions may apply to certain transactions or events, such as land and/or building for diplomatic and consular representatives based on the principle of reciprocal treatment, individual or entity for religious purposes, etc. The acquisition duty is governed by regional tax regulation.

1.6 Net wealth tax

There is no net wealth tax. However, Indonesian income tax law states that an increment in wealth, originating in income not yet subject to tax, is taxable. In the Indonesian individual income tax return, the individual taxpayer is required to declare assets, liabilities and income. The tax office may impose additional income tax should there be any increment of the net assets, which may be acquired using income not yet reported in the tax return.

2. Who is liable?

2.1 Residency/domicile

Resident taxpayer

Under Indonesia tax law, as amended by the Tax Regulations Harmonization Law, an individual, whether an Indonesia or a foreign citizen, is considered as an Indonesian tax resident if the individual:

- Resides in Indonesia
- Has been in Indonesia for more than 183 days within a 12-month period
- Resides in Indonesia during a fiscal year with the intention to reside permanently in Indonesia

Nonresident taxpayer

The provisions under the Tax Regulations Harmonization Law re-emphasize that an Indonesian citizen is considered as a nonresident taxpayer if he/she:

- Resides outside of Indonesia for more than 183 days within a 12-month period
- Meets certain conditions: place of residency, place of main activity, place of habitual abode, tax subject status and/or other certain conditions

Nonresident taxpayers are taxed only on Indonesian-sourced income.

3. Rates

As Indonesia does not have any inheritance, gift, endowment or net wealth tax, this is not applicable.

For real estate transfer tax, the final tax rate for resident taxpayers is as follows:
- 1% of the gross transfer value (tax base) for the transfer of a low-cost house and low-cost flat by a taxpayer whose main business is the transfer of land and/or building
- 0% of the gross transfer value (tax base) for the transfer of land and/or building for public interest to the government
- 2.5% of the gross transfer value (tax base) for transfer of land and/or building other than those specified above

The table below shows the statutory income tax rate for a resident taxpayer who receives other taxable income.

Taxable income bracket (IDR)	Tax rate
Up to 60 million	5%
Over 60 million but not exceeding 250 million	15%
Over 250 million but not exceeding 500 million	25%
Over 500 million but not exceeding 5 billion	30%
Over 5 billion	35%

The tax rate for a nonresident taxpayer who receives Indonesian-sourced income (as prescribed under Art. 26 of Income Tax Law) is 20% (final).

4. Exemptions and reliefs

For real estate transfer tax, an exemption is available under the following conditions:
- The transfer of land and/or building as part of the gift/grant by an individual as long as the transfer is in accordance with the requirement mentioned in section 1.2 above
- The transfer of land and/or building as part of inheritance
- The transfer of land and/or building if the transfer value is less than IDR60 million by an individual whose annual income is less than the threshold of nontaxable income (i.e., IDR54 million)
- The transfer of land and/or building by individual under the arrangement of build-operate-transfer, build-transfer-operate or utilization of state-owned assets
- The transfer of land and/or building by individual who is exempted from the definition of Indonesian tax subject

The exemption as stipulated above is granted through the issuance of an Exemption Certificate. The Exemption Certificate shall be issued if the individual fulfills the following requirements:
- Has submitted annual income tax returns for the last two fiscal years and/or monthly value-added tax returns for the last three fiscal periods, if applicable
- Has no outstanding tax debt or has obtained an approval to postpone or install the payment of the tax debt
- Has submitted the relevant statement letter as an attachment to the application (e.g., for the transfer of land and/or building as part of inheritance, the individual must attach the statement of inheritance distribution)

5. Filing procedures

The due date of the payment for the land and/or building transfer tax is before the deed of transfer is signed by the authorized official. If the transfer of the land and/or building is done by a taxpayer engaged in the business of sale and purchase of land and/or building, the tax payment is due before the deed of transfer is signed by the authorized official or by the 15th of the following month after payment is received.

Late payment of tax will be subject to a penalty of a monthly interest rate determined by the Minister of Finance (calculated based on a reference interest rate plus 5% then divided by 12) on the amount of tax due, which is calculated from the due date until the date when the tax is paid, for a maximum period of 24 months. The penalty is collected through the issuance of a tax collection notice from the tax authority.

The due date for filing the monthly tax return is by the 20th of the following month after the transfer is effective or when the payment is received. Late filing of the monthly tax return is subject to a penalty of IDR100,000 per return, payable upon issuance of a tax collection notice from the tax authority.

Furthermore, the individual is required to report the transactions above in his or her individual income tax return. Note that it is for reporting purposes only and there will be no additional tax on the transfer of real estate since it is a final tax. The annual filing due date is no later than three months after the end of the individual's calendar year. Late filing of the annual individual income tax return is subject to a penalty of IDR100,000, to be collected through issuance of a tax collection notice from the tax authority.

6. Assessments and valuations

See section 1.3.

7. Trusts, foundations and private purpose funds

Indonesia operates under a civil law framework, and as such, the concept of a trust is not traditionally recognized within the legal framework. However, through the issuance of Development and Strengthening of the Financial Sector Law, Indonesia has introduced the concept of a trust, tailored to align with the civil law framework. In general, the scope of activities performed by the special purpose vehicle (SPV) and/or trustee as introduced by the respective law are as follows:

a. To receive the custody and management (trust) of the assets belonging to the custodian of the trust asset based on a written agreement between the recipient and the manager of the trust assets (trustee) with the custodian of the trust asset (settlor) for the benefit of the beneficiary
b. To carry out securitization which includes the following activities:
    1. To receive transfer of assets or a group of assets including financial assets from the creditor/owner of the original assets (originator)
    2. To carry out securitization of a group of assets including financial assets as referred to in point a above
    3. To issue securities resulting from securitization to investors (beneficiaries)

Note that the implementing regulations concerning the technical aspects of such trusts, as well as regulations addressing the tax implications of these trusts, are yet to be issued. In this regard, the tax implication of the income earned by the local Indonesian trust, settlement of the assets to the local trust, etc., have not yet been clearly regulated.

As for offshore trusts, the net income recorded by the offshore trust computed by its accounting treatment, received or earned by an Indonesian tax resident shall be subject to Indonesian income tax under controlled foreign companies and foreign tax credit regulations.

In general, foundations are considered as a corporate taxpayer, which is subject to general corporate tax compliances. However, the difference of the income over the expenses recognized by certain foundations (e.g., a nonprofit organization engaged in education, research development, social and religious activity) can be exempted from corporate tax if it is reinvested in the form of relevant facilities and infrastructure within the prescribed periods (e.g., within four years), under certain conditions.

8. Grants

See section 1.2.

9. Life insurance

An insurance premium of the employee paid by an Indonesian employer to an insurance company constitutes taxable income for the employee (i.e., subject to employee income tax withholding: the progressive tax rates, 5% to 35%, are applied). If it is paid by the individual employee him/herself, the premium paid is not deductible when calculating the employee income tax.

Further, when there is a claim for a life insurance benefit due to the occurrence of an insured event (i.e., death), the amount received by the individual beneficiary is not taxable. Any other payouts are taxable

10. Civil law on succession

10.1 Estate planning

This may not be applicable in Indonesia because there is no inheritance tax.

10.2 Succession

Under Indonesian law, there are two ways to receive an inheritance: as heirs based on the laws or appointed in a testament/will.

10.3 Forced heirship

The forced heirship varies according to the applicable law when distributing the inheritance, which can be based on Islamic inheritance law, customary law (many Indonesian tribes have their own rule on inheritance) or Indonesian Civil Code.

10.4 Matrimonial regimes

By default, the assets acquired during marriage become joint property of the spouses. For assets owned before the marriage, the right is fully within the spouse who brought the assets. For assets granted/gifted to a spouse during marriage, the right is also fully with the spouse who received the grant (gift), unless he or she agreed otherwise.

Based on Indonesian marriage law, assets that are considered in a marriage consist of joint matrimonial property (*Harta Bersama*, namely assets acquired during a marriage) and personal assets (*Harta Bawaan*, namely assets originally owned by each individual and assets obtained from gifts or inheritance). For the joint matrimonial property, the husband or wife can act with the consent of both parties. Whereas for the personal assets, the husband or wife has the full right over their own respective assets. According to the Constitutional Court ruling of 2016, exception from the above principle can be obtained based on pre- or post-nuptial agreement insofar it does not conflict with the applicable laws and regulations, decency and public order.

10.5 Intestacy

Under Indonesian law, the heirs will receive the inheritance based on civil code, customary law or Islamic law. There are two ways to receive an inheritance: as heirs based on the laws or appointed in a testament.

11. Estate tax treaties

Indonesia does not have any estate tax treaties.

Ireland

EY contacts:

Ireland

Harcourt Centre
Harcourt Street
Dublin 2

Alison McHugh
alison.mchugh@ie.ey.com
+353 1 221 2180

Margaret Coleman
margaret.coleman@ie.ey.com
+353 1 221 2587

James Henry
james.henry1@ie.ey.com
+353 1 425 1705

City Quarter, Lapps Quay
Cork

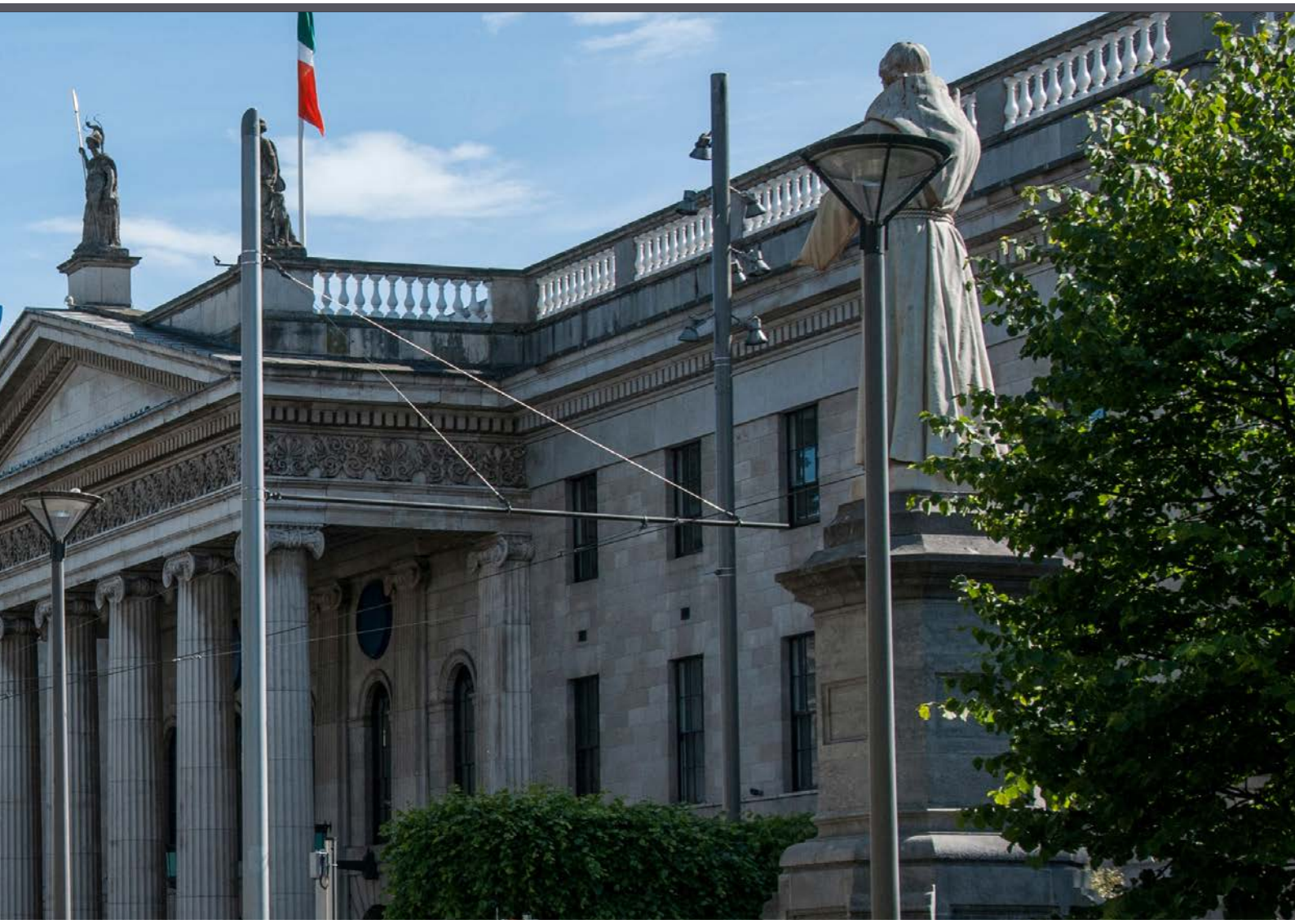
Frank O'Neill
frank.oneill@ie.ey.com
+353 21 480 5718

1. Types of tax

1.1 Inheritance tax

Inheritance tax in Ireland is known as Capital Acquisitions Tax (CAT). There is no estate tax in Ireland. Instead, CAT is levied on each beneficiary who takes an inheritance that falls within the charge to CAT. An inheritance falls within the charge to CAT if either the disponer or the beneficiary is Irish tax resident or ordinarily resident, or the property comprised within the inheritance is situated in Ireland (see Section 2.3 below). The beneficiary is accountable for the tax liability and tax return filing obligations.

The vesting of an inheritance in a beneficiary as legatee on the death of the testator would not give rise to either stamp duty or capital gains tax (CGT) charges.



1.2 Gift tax

CAT is also chargeable on gifts. The scoping rules are the same manner as the rules applying to inheritances, i.e., the residence of the disponer/beneficiary and the situs of the property comprised within the gift (see Section 2.3 below). The beneficiary is accountable for the tax liability and tax return filing obligations. The first EUR3,000 of the total taxable value of all taxable gifts taken by a beneficiary from the same disponer in any year is exempt from CAT. In contrast to inheritances, gifts can also be liable to capital gains tax (CGT) and stamp duty.

1.3 Real estate transfer tax

Stamp duty is payable on the transfer of property including real estate. In the case of a gift, stamp duty is charged on the market value of the property. Stamp duty on nonresidential property is charged at 7.5% and on residential property charged at 1% on consideration up to EUR1 million, 2% on any consideration over EUR1 million and up to EUR1.5 million, and 6% on any consideration over EUR1.5 million. Where the consideration is in respect of three or more apartments in the same apartment block, the stamp duty rates are 1% on consideration up to EUR1 million and 2% on any consideration over EUR1 million. A higher 15% rate applies where a person acquires 10 or more residential properties (excluding apartments) together (or over a period of 12 months). Generally, stamp duty should not arise where property is transferred under an inheritance, unless potentially where a family arrangement rearranges the distribution.

1.4 Endowment tax

There is no endowment tax in Ireland.

1.5 Transfer duty

A gift of chargeable assets is a disposal for CGT purposes. CGT is levied on the gain, which is the difference between the cost of acquiring and enhancing the asset (less any debt written off in respect of such costs) and the market value on the date of disposal. The gain is taxed at 33%. The transferor is the person accountable to pay the CGT liability and file a return. When CGT and CAT arise on the same property and on the same event, the beneficiary may be entitled to claim a credit in respect of the CGT paid against his or her CAT liability. When CGT/CAT credit relief is claimed, the beneficiary cannot dispose of the asset for two years, or the relief would be withdrawn.

In the case of a gift, a charge to stamp duty may arise if the instrument is executed in Ireland or wherever executed relates to Irish situs property or relates to a matter or thing done or to be done in Ireland. Stamp duty is calculated on the market value of the property on the date of the gift. Stamp duty is charged at 1% on shares and marketable securities (other than shares deriving the greater part of their value from Irish nonresidential real estate property (> 50% on a gross value basis), which may be charged at 7.5%, if the transfer results in a change in control of the underlying real estate property and that property was held either as trading stock or held with the object of either realizing a gain from its disposal or realizing a gain when developed). Residential real estate property is subject to stamp duty at 1% on consideration up to EUR1 million, 2% on any additional consideration over EUR1 million and up to EUR1.5 million, and 6% on any additional consideration over EUR1.5 million. Where the consideration is in respect of three or more apartments in the same apartment block, the stamp duty rates are 1% on consideration up to EUR1 million and 2% on any consideration over EUR1 million. A higher 15% rate applies where a person acquires 10 or more residential properties (excluding apartments) together (or over a period of 12 months). Nonresidential property is liable to stamp duty at 7.5% on the market value of the property.

1.6 Net wealth tax

There is no net wealth tax in Ireland.

2. Who is liable?

- Inheritance tax: the beneficiary (i.e., the person who takes the inheritance)
- Gift tax: the beneficiary (i.e., the person who takes the gift)
- CGT: the transferor (i.e., the person transferring the property by gift)
- Stamp duty: the beneficiary (i.e., the person who takes the gift) but the transferor is also secondarily liable

The tax residence, ordinary residence and domicile of both the disponer and beneficiary, and also the *situs* of the property comprised within the gift or inheritance, determines the charge to CAT. The tax residence, ordinary residence and domicile of the disponer, and also whether the property constitutes a specified asset, determines the charge to CGT.

Only certain instruments that are either executed in Ireland or otherwise relate to Irish situs property or relate to a matter or thing done or to be done in Ireland, come within the charge to stamp duty. Anti-avoidance provisions may also apply to bring an instrument within the charge to stamp duty.

2.1 Irish tax resident

Tax residence

An individual is Irish tax resident for a year if present in Ireland for a total of 183 days or more in the year under review, or 280 days or more in aggregate in the year under review and the preceding year. This second test does not apply where an individual was present in Ireland for 30 days or less in a year. An individual is considered as present for a day if he or she is present in the country at any time during that day. The "tax year" follows the calendar year.

Ordinarily resident

An individual becomes ordinarily Irish tax resident from the commencement of the fourth tax year after being Irish tax resident for three consecutive tax years.

An individual who is ordinarily Irish tax resident will not cease to be ordinarily Irish tax resident until he or she has been non-Irish tax resident for three consecutive tax years.

2.2 Domicile

An individual is born with a domicile of origin, which is usually the domicile of his or her father. A person never loses his or her domicile of origin; however, he or she can acquire a domicile of choice and abandon his/her domicile of origin. Acquiring a domicile of choice requires "a final and deliberate intention."

In practice, this means severing almost all connections with the country of origin and establishing a permanent relationship in the country of choice. If the individual abandons his or her domicile of choice, then he or she reverts back to his or her domicile of origin unless and until he or she acquires a new domicile of choice.

2.3 Charge to CAT

With respect to gifts and inheritances received on or after 1 December 1999, a charge to CAT arises when:
- The disponer is resident or ordinarily resident in Ireland
- The beneficiary is resident or ordinarily resident in Ireland
- The gift or inheritance consists of Irish-situated property

Falling within any one of the above brings the gift or inheritance within the charge to CAT.

With respect to gifts and inheritances received from a trust that was settled and fully constituted prior to 1 December 1999, a charge to CAT arises when:
- The disponer is domiciled in Ireland
- The gift or inheritance consists of Irish-situated property

A disponer or beneficiary who is non-Irish domiciled will not be treated as Irish resident or ordinarily resident for CAT purposes unless he or she has been resident in Ireland for five consecutive years immediately preceding the year of the gift or inheritance and is also either Irish resident or ordinarily resident in that year.

This means that a non-Irish-domiciled individual living in Ireland, but who has not been resident in Ireland for five consecutive years, could gift non-Irish assets to non-Irish resident and non-ordinarily resident beneficiary without a charge to gift tax arising.

3. Rates

CAT is charged on the value of the inheritance or gift (collectively, the "benefit") that exceeds the available tax-free threshold amount. The tax-free threshold amount is divided into three groups. The applicable group depends on the relationship between the disponer and the beneficiary. Prior gifts and inheritances received since 5 December 1991 from disponers within the same group are aggregated with the current gift or inheritance to determine the available tax-free threshold amount. The excess benefit received above this amount is subject to CAT at the applicable rate (determined by the date of the gift/inheritance). CAT is currently charged at 33%.

The table below shows the three tax-free group threshold amounts.

Group	Relationship to disponer	Group threshold from 2 October 2024 (EUR)
A	Applies when the beneficiary is a child (including adopted child, stepchild, child of a civil partner and certain foster children) or minor child of a predeceased child or that predeceased child's civil partner. Parents also fall within this threshold when they take an inheritance of an absolute interest from a child.	400,000
B	Applies when the beneficiary is a brother, sister, child of a brother or child of a sister, child of the civil partner of a brother or sister or lineal ancestor or lineal descendant of the disponer	40,000
C	Applies in all other cases	20,000

For example, an individual who received a prior gift of EUR100,000 from his or her mother in the year 2014 and receives an inheritance from his or her father's estate of EUR750,000 in 2025, would have a Group A tax-free threshold of EUR303,000 available to reduce the taxable value of his or her inheritance liable to CAT (i.e., EUR400,000 less EUR97,000). The annual small gift exemption of EUR3,000 reduces the taxable value of the prior gift of EUR100,000 to EUR97,000 (i.e., EUR100,000 less EUR3,000). The 2025 inheritance would be taxed as follows (EUR):

2025 inheritance	750,000
2025 Group A	400,000
Less prior taxable gift	(97,000)
Available Group A threshold	303,000
Current inheritance	750,000
Less available threshold	(303,000)
Taxable excess	447,000
CAT charged at 33%	147,510

If the 2014 gift was from an uncle instead of the individual's mother, then the prior gift would be a Group B prior gift and, therefore, would not be aggregated with the current inheritance for the purposes of calculating the CAT liability on the inheritance.

The tax on the 2025 inheritance would then be (EUR):

2025 inheritance	750,000
Available Group A threshold	400,000
Taxable excess	350,000
CAT charged at 33%	115,500

4. Exemptions and reliefs

Exemptions

- A gift or inheritance received from a spouse or civil partner.
- First EUR3,000 of all gifts taken from each disponer in any one calendar year.
- The proceeds of certain "qualifying insurance policies" that are taken out to pay certain taxes, subject to conditions. In particular, proceeds arising from such an insurance policy that are expressly used for the payment of CAT on gifts or inheritances arising on a future disposition is exempt from CAT.
- Transfers following the legal dissolution by way of a decree of divorce or a court order of civil partnership will not be subject to CAT in certain circumstances. In particular, transfers under provisions for maintenance orders for spouses and children, a lump sum for maintenance orders for spouses and children, certain orders following dissolution of a civil partnership, as well as certain orders made by a foreign court on dissolution of a marriage or civil partnership that is recognized as valid in Ireland can all, in subject to conditions, be exempt from CAT.
- An inheritance taken by a parent on the death of a child to whom either parent had made a taxable gift or inheritance in the previous five years.
- A gift or inheritance for public or charitable purposes. An inheritance of a dwelling house may qualify for exemption subject to meeting certain qualifying criteria. The exemption is subject to clawback if certain conditions are not satisfied. A gift or inheritance of a dwelling-house taken by a dependent relative who is permanently and totally incapacitated due to mental or physical infirmity may qualify for exemption.
- Payments made for the support, maintenance or education of a minor child, or a child who is more than 18 years of age but not more than 25 years of age and who is receiving full-time education or instruction at any university, college, school or other educational establishment, or regardless of age to a child who is permanently incapacitated by reason of physical or mental infirmity from maintaining himself or herself, is exempt from CAT where the benefit is such as would constitute part of the normal expenditure of a person in the circumstances of the disponer and also reasonable having regard to the financial circumstances of the disponer.
- Gifts or inheritances taken exclusively for the purposes of discharging certain medical and related expenses, including the cost of maintenance in connection with such medical care of an individual who is permanently incapacitated by reason of physical or mental infirmity. For the exemption to apply, there must be evidence from the disponer that he or she has provided the benefit exclusively for these purposes.
- Heritage property, subject to conditions.
- Government securities (subject to conditions) when the donee is neither domiciled nor resident in Ireland.
- An inheritance of the principal dwelling-house of the donor, subject to conditions, including a requirement that it is also the principal dwelling-house of the donee. A gift of the principal dwelling-house of the donor, subject to conditions, including a requirement that the donee also occupy the dwelling-house, and that the donee is a dependent relative of the donor. In either case, the donee cannot have an interest in another dwelling-house at the date of the gift/inheritance.

Reliefs

- When a gift or inheritance consists of business property or shares in a family-owned business, subject to meeting certain qualifying conditions, the taxable value of the property or shares taken may be reduced by 90% for the purposes of calculating the tax liability. Clawback conditions apply. A nephew or niece who worked substantially in the family business with the disponer over a period of five years may, subject to meeting certain qualifying conditions, qualify for the Group A tax-free threshold in respect of the business assets for the purposes of calculating his or her tax liability.
- When a gift or inheritance consists of agricultural property, subject to meeting certain qualifying conditions, the market value of the agricultural property may be reduced by 90% for the purpose of calculating the tax liability. Clawback conditions apply. A nephew or niece who worked substantially on the family farm with the disponer over a period of five years may, subject to meeting certain qualifying conditions, qualify for the Group A tax-free threshold in respect of the agricultural assets for the purposes of calculating his or her tax liability.
- When CGT and CAT arise on the same property on the same event, the CGT paid can be credited against the CAT liability. The beneficiary must not dispose of the property for a period of two years commencing on the date of the gift or otherwise a clawback of the relief would arise.

5. Filing procedures

The beneficiary is accountable to pay the CAT liability and file a return. When beneficiaries of an estate are non-Irish resident, the personal representative and/or solicitor acting in the administration of the estate are also accountable to pay and file.

The CAT return filing and payment date is fixed by the valuation date. In the case of a gift, the general rule is that the date of the gift is the valuation date. In the case of an inheritance, the valuation date is typically the date of the grant (i.e., probate where a person dies leaving a valid will, or administration intestate where a person dies without leaving a valid will).

Where the inheritance is a share of the residue of the net estate, then generally the valuation date is the date of ascertainment of the residue available for distribution. Where the beneficiary takes immediate possession of an asset, or already has possession, the valuation date may be the date of death.

Where an inheritance is received under the will of a deceased person by a beneficiary who is not resident in the state, the personal representative in Ireland is deemed to be assessable for any inheritance tax that may arise. However, in the case of nonresident individuals who are in receipt of an inheritance in excess of EUR20,000 and the personal representative does not reside in the state, the personal representative is required to appoint a solicitor who is lawfully practicing in Ireland who is required to fulfill the administration requirements of the deceased estate. In this case, the appointed solicitor in Ireland is deemed to be the assessable and chargeable person for any inheritance tax payable by the nonresident beneficiary.

When the valuation date falls between 1 January and 31 August, then the CAT liability must be paid, and a CAT return filed, by 31 October of the same year. When the valuation date falls between 1 September and 31 December, the CAT liability must be paid, and a CAT return filed, by 31 October of the following year. Failure to deliver a CAT return and discharge the CAT liability by the specified pay-and-file date will give rise to interest and a late filing surcharge.

6. Assessments and valuations

CAT is a self-assessment tax. That is, the beneficiary must calculate and pay the liability and also file a return. The Revenue Commissioners can raise assessments when a return has not been filed or the return is incorrect. The Revenue Commissioners have a four-year time limit to issue a correcting or additional assessment from when they receive the return. This time limit does not apply in the case of fraud or neglect. CAT is calculated on the market value of the property comprised within the gift/inheritance as at the valuation date. A surcharge may be imposed in the case of undervaluation.

7. Trusts, foundations and private purpose funds

Trust structures can be used to protect assets and pass wealth to the next generation. Trusts are often used in conjunction with other legal structures, such as companies or partnerships, as property investment vehicles.

The settlement of property upon trust, the administration of the trust property during the life of the trust, the appointment of property out of trust and the winding-up of the trust will all have myriad tax implications, including capital acquisitions tax, CGT, discretionary trust tax (DTT), stamp duty and income tax. In addition, special anti-avoidance tax rules may apply in the case of trusts settled for minor children during the lifetime of the settlor.

Bare, fixed and discretionary trusts are the main types of trusts to consider for tax purposes.

Bare trusts

A bare trust is akin to a nomineeship, when for legal reasons or convenience, assets are held by persons who do not own those assets beneficially.

Limited interest trusts

A limited interest trust is a settlement in which the beneficial interest taken by a beneficiary is not absolute and is limited by either time or by a condition. An example is a trust for a person for life or until he or she reaches a certain age or for a particular number of years.

In the case of a life interest trust, the life tenant is entitled to the income from the trust for the duration of his or her life, and on his or her death, the absolute interest in the property passes to the remainderman.

Discretionary trusts

Under a discretionary trust, assets are given to trustees to hold on trust to apply the income or capital, or both, for the benefit of a class of beneficiaries who are listed in the trust deed in such proportions as the trustees decide, by exercising their absolute discretion. The trustees have an absolute discretion as to which beneficiary or beneficiaries from a class of beneficiaries will benefit from the trust property, as well as when and to what extent. A beneficiary of a discretionary trust has no right to any of the trust assets, and a beneficiary will not receive any trust assets unless and until the trustees exercise their discretion in favor of that beneficiary.

A discretionary trust structure should allow trustees sufficient flexibility to manage the trust assets and use their discretion and expertise to make provision for the beneficiaries in the best way possible, considering the legal and tax implications and ensuring the passing of assets in an orderly manner while also avoiding dissipation of trust assets. A discretionary trust is generally the vehicle of choice to protect minor and incapacitated children.

In addition to having other tax implications, discretionary trusts are also liable to discretionary trust tax (DTT). DTT arises when the settlor (i.e., the individual who sets up the trust and settles assets on trust) has died and all of the principal objects are over 21 years of age. For DTT, the principal objects comprise the spouse or civil partner of the settlor, the children of the settlor, or his or her civil partner, or, if these children are predeceased, their children and their civil partner's children.

DTT is payable as a one-time initial charge of 6% on the value of the assets held upon trust as of the date the trust becomes a chargeable discretionary trust, and thereafter as an annual charge of 1% levied on the value of the assets held upon trust on 31 December in each year (but not within 12 months of the initial charge). If all the assets of the trust are appointed out within five years of the trust becoming a chargeable discretionary trust, then a refund of 50% of the initial charge can be claimed. That is, the initial charge is recomputed at 3% rather than 6%.

Discretionary trusts are exempt from DTT if they are created exclusively for:
- Purposes that, in accordance with the laws of Ireland, are public or charitable
- The purpose of a superannuation or unit trust scheme
- The benefit of improvident or incapacitated individuals
- The upkeep of heritage houses or gardens

DTT also applies to foundations that are similar to discretionary trusts.

Foundations

Setting up a foundation can provide an individual with flexibility and control over their philanthropic investment, for those wishing to involve their family and future generations in giving and for businesses wanting to adopt a more structured and strategic approach to giving. Ireland has not legislated to recognize foundations, unlike many civil law and offshore jurisdictions. The majority of philanthropic organizations in Ireland are established either as a charitable trust or as a company limited by guarantee and not having a share capital. Generally, foreign foundations are taxed by the Revenue Commissioners as discretionary trusts. Tax exemptions may apply to foundations established exclusively for a charitable purpose.

Charities

A charity must register with the Charity Regulatory Authority to obtain charitable status and separately with the Revenue Commissioners to obtain a charitable tax-exempt status.

On an ongoing basis, the charity may be exempt from income tax or CGT on its earnings, provided certain conditions are met. Following receipt of a charitable tax exemption, after two years the charity may apply for authorization as an eligible charity, which gives corporate donors and the charity itself favorable tax treatment in relation to donated sums.

Central Register of Beneficial Ownership of Trusts

Finally, the European Union (Anti-Money Laundering: Beneficial Ownership of Trusts) Regulations 2021 (the "Regulations"), which came into force in Ireland in 2021, impose an obligation on trustees of Irish trusts to file certain information relevant to beneficial ownership of trusts with a Central Register of Beneficial Ownership of Trusts, maintained by the Revenue Commissioners.

8. Life insurance

Payments of life insurance policies are taxable on beneficiaries on the basis that they take a benefit where insufficient, or no consideration was provided. These benefits may come within the charge to CAT. Certain life insurance policies that are specifically taken out to pay gift or inheritance tax and/or approved retirement fund tax will be exempt from CAT when they are used for the purpose of paying that tax.

9. Law on succession

9.1 Estate planning

For Irish resident and Irish domiciliaries

CAT is payable on gifts or inheritances. There are several reliefs, such as agricultural relief and business relief, which can reduce an individual's liability to CAT if certain conditions are met. Gifts of EUR3,000 per annum are exempt from CAT under the annual small gift exemption and will not be counted as part of an individual's lifetime CAT threshold.

Non-Irish domiciliaries

A non-Irish-domiciled individual who becomes a non-Irish resident for one year out of five can make a gift or inheritance of non-Irish property to a non-Irish resident or ordinarily resident beneficiary and it may not be liable to CAT.

9.2 Succession

The Succession Act 1965 (the "Act") governs the law of succession in Ireland with respect to the distribution of the estate of a deceased who died domiciled in Ireland, or the distribution of Irish real property of the deceased, regardless of their domicile.

An individual's estate consists of all the assets the individual owns at the time of death. These assets will be distributed in accordance with the person's will, trust or intestacy laws. All property held by a nominee of which the deceased is the beneficial owner will form part of his/her estate. All interests held by a deceased by way of tenancy-in-common will also form part of the individual's estate. Assets include property, investments, pensions, cash and cash equivalents.

Certain property may not pass into a deceased's estate; for example, property held under a "joint tenancy" passes on death to the surviving joint tenants according to the rules of survivorship, assets passing by nomination, death benefits passing under a life insurance policy or pension scheme, or assets passing in which the deceased had an interest for his/her life.

9.3 Forced heirship

Under the Succession Act 1965, a spouse or civil partner is entitled to a "legal right share" in the deceased's estate, which may override the provisions of the testator's will. Where the testator had no children, the spouse or civil partner is entitled to one-half of the estate. Where the testator had children, then the spouse or civil partner is entitled to one-third of the estate. If the testator made no provision in his or her will for his or her spouse/civil partner, then the surviving spouse/civil partner's entitlement to a legal right share is automatic. Where provision has been made for the spouse/civil partner under the will, the spouse/civil partner may elect to take the legal right share rather than the legacy bequeathed to them under the will.

Children do not have any automatic entitlement, but they have a right to apply to court under the Succession Act 1965 for a share of their deceased parent's estate when they believe that "proper provision" was not made for them by their deceased parent, whether by will or otherwise. The court will look at all factors before deciding whether "proper provision" was made, including the extent to which proper provision was made during the testator's lifetime and the financial situation of the testator and all of the testator's children. The onus of proof is on the child making the claim to prove a positive failure in the moral duty of the deceased parent. The court has power to alter the terms of a will and make provision for a child from the estate. However, the court order cannot affect the legal right share of the surviving spouse/civil partner.

9.4 Matrimonial regimes and civil partnerships

There is no matrimonial regime/community property regime in Ireland. However, spouses and civil partners get an automatic share of the estate of a deceased spouse or civil partner.

Civil partnerships became law in Ireland with effect from 1 January 2011. The legislation gives registered civil partners similar legal rights as spouses. Tax legislation has been amended to ensure civil partners are afforded the same exemptions and reliefs as spouses.

Same-sex marriage has been legal in Ireland since 16 November 2015.

9.5 Intestacy

When a deceased person fails to make a valid and effective will, the estate is distributed according to the rules on intestacy, as provided for in the Succession Act 1965.

These rules determine how the estate is distributed based on the degree of relationship of surviving relatives to the testator, as shown in the table below:

Surviving close relatives	Share in estate
Spouse or civil partner and no children	Spouse or civil partner inherits all of estate
Spouse or civil partner and children	Spouse or civil partner two-thirds, children one-third (and special provisions for children of deceased children)
No spouse or civil partner or children	Parents inherit entire estate
No spouse or civil partner, children or parents	Surviving brothers and sisters in equal shares with children of predeceased brothers and sisters taking their parent's share equally

The rules continue to divide assets among more distant relatives with the State as the ultimate successor.

9.6 Probate

Before the assets of an estate in Ireland can be administered, an application must be made to the probate office, a division of the High Court, for a grant of probate in the case of a valid will or a grant of administration intestate in the case of an intestacy (i.e., where the testator failed to make a valid will). The process of the application and who is entitled to apply is governed by the Succession Act 1965. The grant gives the personal representatives the power to administer the estate of the deceased and deal with the assets of the estate.

10. Estate tax treaties

If a deceased person held foreign assets at the date of death, a charge to tax may arise in that foreign jurisdiction and also in Ireland. To mitigate double taxation arising, Ireland has entered into double-taxation agreements with the United Kingdom and the United States. Unilateral relief is also available under domestic legislation.

10.1 Unilateral rules

Unilateral rules apply to allow a credit for foreign tax on a gift or inheritance against the Irish CAT liability when the taxes arise on the same event, and when the double-tax treaties do not provide for a relief.

10.2 Double-taxation treaties

The Ireland/UK treaty applies to both gifts and inheritances. Under the provisions of the treaty, each Contracting State retains the right to tax property situated in that country and double-taxation relief is then provided by the granting of a credit. If the doubly taxed property is in either Ireland or the UK, then the country where the doubly taxed property is not situated gives a credit for the tax paid in the country where the property is situated. Where the doubly taxed property is not located in either Ireland or the UK, credit is given by the State that has the "subsidiary taxing rights." A credit is only given where the same property is taxed on the same event in both Ireland and the UK, and the same individual must bear the burden of tax in both countries.

The Ireland/US treaty applies only to Irish inheritance tax and US federal estate tax arising on death. It does not extend to gifts or to separate US state death taxes imposed by individual US states on their residents. Relief from double taxation that arises in these circumstances should be claimed under the unilateral provisions. Treaty relief operates either as an exemption in certain cases or otherwise credit relief may apply.

Italy

EY contacts:

Milano

EY
Via Meravigli 12/14
20123 Milan
Italy

Paolo Santarelli
paolo.santarelli@it.ey.com
+39 02 8514 3271

Claudio Quartana
claudio.quartana@it.ey.com
+39 02 8514 3563

1. Types of tax

1.1 Inheritance and gift tax

Law No. 286/2006 and Law No. 296/2006 reintroduced the inheritance tax and gift tax. The legislation brought back into force the inheritance rules (effective 3 October 2006), the gift rules (effective 29 November 2006) and most of the provisions of Law Decree No. 346/1990 (Inheritance and Gift Tax Code), which previously regulated inheritance and gift matters until late October 2001 (as of 25 October 2001, the inheritance and gift tax were repealed).

Law No. 286/2006 introduced changes to the application of the inheritance and gift tax and the applicable tax rates. Law No. 296/2006 then introduced some further minor changes.

Legislative Decree No. 139/2024 has introduced substantial changes to Italian inheritance and gift taxes by regulating trusts within the Inheritance and Gift Tax Code for the first time.

Inheritance and gift taxes both apply to the worldwide estate (donation) when the deceased (donor) is resident in Italy at the time of death (gift). Taxation will apply only to Italian assets if the deceased (donor) was not resident in Italy.

The tax is levied on the net share of the inheritance, donation or other gratuitous transfers passing to the beneficiary (e.g., net of liabilities and deductible expenses, debts of the deceased, funeral and medical expenses), taking into consideration nontaxable threshold amounts that depend on the relationship between the transferor and recipient. These allowances are lifetime amounts, and a running total must be kept if an individual receives more than one gift from one donor. However, based on a decision of the Italian Supreme Court, the same rule is no longer applicable when an individual receives both a gift, as well as an inheritance, from the same donor. In Circular Letter No. 29/E of 2023, the Italian tax authorities have endorsed the position of the Italian Supreme Court.

The law provides specific rules for the determination of the taxable base for each kind of transferred asset (e.g., real estate, shares, bonds, investment funds and movable goods).

1.2 Real estate transfer tax

In addition to inheritance and gift taxes, if the inheritance or the endowment includes real estate or real estate rights, the following taxes are due:

- Mortgage tax, which is 2% of the value of the property (this is necessary to proceed with the registration of the deed in the public registers of property)
- Cadastral tax, which is 1% of the value of the property (required for the registration of the transfer deed)

The value of the property is determined in accordance with the rules provided for purposes of inheritance and gift taxes (see Section 6).

Instead of applying the above percentages on the value of the property in cases of inheritance or endowment of the "first house," the beneficiary pays a fixed rate of EUR200 for mortgage and EUR200 for cadastral taxes.

1.3 Transfer duty

A transfer tax (register tax) is levied only on the transfer of real estate (in cases where there was no inheritance or endowment). The tax rate ranges from a fixed amount of EUR200 up to 9% of the value of the real estate depending on the specific features of the transfer and the kind of real estate subject to transfer (i.e., different rules are applied with reference to luxury real estate). If certain requirements are met, the value of the real estate can be determined by multiplying the cadastral revenue of the real estate by specific relevant updated coefficients.

1.4 Net wealth tax

As of 2011, a wealth tax on financial assets held abroad by individuals resident in Italy applies at the rate of 0.1% per year on the value of the financial asset. Starting from 2014, this rate is 0.20%. Starting from 2024 the rate of 0.4% percent applies if the financial assets are held in a jurisdiction considered to have a privileged tax regime. Furthermore, as of 2023 a specific wealth tax also applies, at the rate of 0.2% per year, on the value of crypto assets held with a nonresident intermediary or stored on UBS sticks or smartphones.

The Italian government also introduced, starting from tax year 2012, a wealth tax for real estate properties held abroad by Italian tax residents. This wealth tax is applied at a rate of 1.06% per year on the value of the property. Taxable value is equal to the purchase cost or, in the absence of this, to the fair market value (FMV) of the property, or, in some cases, to a notional value determined according to both Italian law and foreign law. It should be noted that different rules apply to real estate located in the European Union (EU) and some European Economic Area (EEA) countries, and properties held in other countries.

Under certain circumstances, taxpayers are entitled to claim a tax credit equal to the amount of wealth tax already paid in the country in which the property is located; a case-by-case analysis needs to be performed.

Italy has recently introduced a "new resident" regime (Article 24-bis D.P.R. No.917/1986) that is applicable to individuals that transfer residency for tax purposes in Italy, provided that other conditions are met. Under this new regime, Italian "new resident" taxpayers are not subject to wealth taxation on financial assets and real estate held outside Italy. In addition, reporting obligations are not applicable to "new resident" Italian taxpayers.

"New residents" are individuals who have been nontax-resident in Italy for at least nine years out of the 10 years preceding their transfer to Italy. They are able to pay a substitutive tax (EUR100,000 for individuals who moved their residency to Italy before 10 August 2024 or EUR200,000 for individuals who moved their residency to Italy from 10 August 2024) to their foreign income, and the regime may be extended to family members (paying EUR25,000 each member). The regime applies for a maximum of 15 fiscal years.

The exemption from the wealth tax on financial assets and real estate held abroad and reporting obligations also apply to individuals resident in Italy who opt for the flat tax regime for retirees (Article 24-ter D.P.R. No. 917/1986). This optional regime, which provides for a 7% flat rate on all non-Italian-source income, applies to pensioners who transfer their tax residence in specific municipalities of Italy with a limited number of inhabitants as identified by the law (nearly all the eligible municipalities are in southern Italy). Any domestic income will be ordinarily taxed. One necessary but insufficient condition for accessing this regime is possessing foreign-source pension income. The regime applies for a maximum of 10 fiscal years.

1.5 Real estate property tax

Starting from tax year 2020, Italy unified the former municipal taxes on real estate IMU and TASI, providing that TASI will be absorbed by IMU. The new tax will basically maintain the rules previously applicable to IMU and TASI in terms of real estate subject to tax, taxable basis and deadlines. In terms of applicable rates, tax has a base rate of 0.86% (however, each municipality has the right to increase the rate up to 1.14% and decrease the respective rate up to exempt from payment) per year on the value of the real estate. The taxable value for IMU is calculated based on the cadastral value (i.e., a notional value) attributed to each property by the local municipal offices.

Moreover, real estate used as a principal abode is excluded from property tax. However, if the principal abode is luxury real estate (i.e., A/1, A/8 and A/9 cadastral categories), tax is applied at a rate of 0.5% and a general tax discount of EUR200 (however, municipalities have the right to determine applicable rates in a range between 0% and 0.6%).

In some instances, the taxable basis is subject to a reduction of 50%, among others, in the event that the real estate property falls under the category of a site of cultural interest (for historical and/or artistic purposes). Because some legal conditions need to be met and a further analysis performed to apply this reduction, a case-by-case approach is recommended.

2. Who is liable?

Inheritance tax applies to the worldwide assets of Italian residents. All and only the Italian assets are subject to tax also if the deceased was not an Italian resident at the moment of death.

In practice, when the deceased person is a resident abroad, taxation in Italy is restricted to the property and rights located in Italy. When the deceased person is a resident in Italy, Italian inheritance tax is governed by the principle of territoriality, meaning that the taxable estate consists of all of the property and rights transferred mortis causa, including those located abroad. No relevance is attributed to nationality/citizenship and to the domicile of the deceased/donor.

However, the general rule stated above has been changed as a result of the special "new resident" regime. For individuals who qualify for this regime, only assets located in Italy are subject to inheritance and gift taxes once they are the deceased (in respect of inheritance tax) or the donor (in respect of gift tax). Therefore, the worldwide principle is not applicable to "new resident" taxpayers, and any assets held abroad do not fall under inheritance and gift taxation rules if the deceased or donor is subject to such special regime.

Similar to inheritance tax, gift tax applies to the worldwide assets of Italian residents, while assets based in Italy are subject to tax if the donor was not an Italian resident at the time of the donation.

2.1 Residency

An individual is considered to be a resident in Italy for income tax purposes if, for the greater part of the tax period(more than 182 days in any calendar year or more than 183 in case of leap year, also considering fractions of a day), at least one of the following conditions is met:

- He or she has his or her domicile in Italy (defined as the place where the individual's personal and family relationships are primarily developed).
- He or she has his or her residence in Italy in accordance with the provisions of the Italian Civil Code.
- He or she is physically present in Italy.

In addition, unless proven otherwise, a person is deemed to be resident in Italy if is registered under the Italian Office of the Resident Population for the greatest part of the tax period.

The Italian tax authorities may take the following into account to define whether an individual is a resident in Italy:

- Moving to Italy with the family
- Transactions effected through bank accounts opened in Italy
- Renting a home for the entire year with normal levels of consumption of electricity, gas and telephone services that demonstrate a substantial period of presence in Italy
- Membership in social or sports clubs

The Italian tax authorities use a special intelligence group of the tax police to collect evidence to establish whether residence in Italy has been established. This group's main purpose is to demonstrate:

- The presence of an individual's business interests in Italy
- The presence of family life in Italy
- An individual's remittance to Italy of funds earned abroad

For purposes of inheritance and gift taxes, no specific definition of residence is included in the Inheritance and Gift Tax Code or in other laws.

3. Rates

The new legislation has introduced new tax rates that are common to inheritance and gift taxes and mainly depend on the relationship between the deceased and the beneficiary.

Generally, the closer the relationship, the lower the tax rate applicable; these rates may vary from 4% to 8% and apply to the total value of the legacy or the gift, with some tax-exempt thresholds. On this matter, it has to be mentioned that, due to the entering into force of Law No. 76/2016, any rules previously applicable in case of marriage (i.e., between spouse of different sexes) have been directly extended to same-sex civil partnerships. On the contrary, the law does not provide the same extension for cohabitants.

4. Exemptions and reliefs

The tax rates currently applicable and the tax-exempt thresholds are listed in the table below.

Beneficiary	Inheritance and gift tax and tax-exempt threshold
Spouse or linear relatives (descendant, ascendant)*	4% on the total assets' value with a tax-exempt threshold of EUR1 million for each heir or beneficiary
Brother or sister	6% on the total assets' value with a tax-exempt threshold of EUR100,000 for each heir or beneficiary
Other relatives (including uncles, aunts, nephews, nieces and cousins) and certain relatives by marriage	6% on the total assets' value with no tax-exempt threshold
Other persons or entities different from the ones listed above	8% on the total assets' value with no tax-exempt threshold
Persons with critical disablements within the meaning provided by the applicable Italian law	There is a tax-exempt threshold of EUR1.5 million for each heir or beneficiary, and over this threshold the same rates listed above apply depending on the relationship with the deceased

* Note that according to the Italian Supreme Court, certain kinds of minor transfers between spouses (e.g., wire transfer of cash) could be considered as a gift falling into the scope of gift tax, if they are significant enough to realize a stable increase in the assets of the donee and an impoverishment of the assets of the donor. Therefore, a case-by-case analysis would be necessary to verify the correct tax treatment.

In addition to inheritance and gift taxes, immovable properties are subject to mortgage tax and cadastral tax, which range from EUR400 to 3% of the property value.

Beneficiary	Mortgage tax	Cadastral tax
Spouse or linear relatives (descendant, ascendant)	EUR200 for the main dwelling 2% on the value* of other immovable properties	EUR200 for the main dwelling 1% on the value* of other immovable properties
Brother or sister		
Other relatives (including uncles, aunts, nephews, nieces and cousins) and certain relatives by marriage		
Other persons or entities different from the ones listed above		
Persons with critical disablements within the meaning provided by the applicable Italian law		

* The value of the property is determined in accordance with the rules provided for the purposes of inheritance and gift taxes (see Section 6).

It must be noted that for the applicability of the aforementioned tax-exempt thresholds with regard to inheritance rules, according to the Italian Supreme Court, it is no longer necessary to consider the donations made by the deceased person to the heirs during his or her life.

However, according to the Italian Supreme Court, the rule is still applicable where an individual receives more than one gift from the same donor; therefore, the value of the donations made to an individual needs to be recorded any time a new gift is granted to check if the cumulative sum exceeds the amount of threshold.

Italian tax authorities recently endorsed the above position of the Italian Supreme Court by publishing Circular Letter No. 29/E of 2023.

Specific exemptions from inheritance and gift taxes are provided by the Inheritance and Gift Tax Code and by other laws. Among others:

- Transfers in favor of the state, regions, provinces and municipal districts
- Transfers in favor of government bodies, foundations or legal associations (even if established in the EU, EEA and, subject to reciprocity, in other countries) for the purpose of assistance, study, scientific research, education or similar public utility purposes
- Transfers in favor of bank foundations referred to in Legislative Decree No. 153/99
- Transfers in favor of political movements and parties
- Transfers in favor of third-sector bodies referred to in Legislative Decree No. 117/2017 (enti del terzo settore), including social cooperatives and not including social enterprises incorporated in the company form, used in the course of statutory activities for the exclusive pursuit of civic, charitable and socially useful purposes
- Transfers of a business or of a participation in companies or partnerships in favor of the spouse or descendants if certain conditions are met (see Section 10.1). Furthermore, the following are excluded from the estate and thus not subject to inheritance tax, among others:
  - Severance payments in the event of the death of the employee
  - Insurance policies
  - Public debts securities (issued by the Italian government and by EU/EEA countries)

- Other government, state-guaranteed or equivalent securities (including EU/EEA securities)
- Vehicles registered in the public motor vehicle register (an exemption from the gift tax is set forth by law, too)
- Cultural properties, if certain conditions are satisfied (in case of gifts, a fixed amount is due)
- Financial instruments held by the deceased in an individual savings plan (piano individuale di risparmio)

The Inheritance and Gift Tax code provides that gift tax does not apply in cases of gifts or other gratuitous transfers connected with deeds concerning the transfer or establishment of rights in rem in immovable property or the transfer of businesses, if the deed is subject to the application of transfer tax, at a proportional rate, or value-added tax (VAT).

5. Filing procedures

An inheritance declaration must be submitted within one year from the date of the start of the inheritance, which usually coincides with the date of the taxpayer's death.

On 23 January 2017, the Italian tax authorities launched an online platform that enables the declaration to be filed electronically, and starting from 2019, electronic filing is the only allowed procedure.

Regarding inheritance declarations, Law Decree No. 175/2014 has established an exemption from filing requirements for spouses, civil partnership and linear relatives when the total asset value is lower than EUR100,000 and there are no rights on the real estate property. In this case, an inheritance declaration is not required.

If there is real estate in the inheritance, mortgage and cadastral taxes as well as stamp duty must be paid using a specific form before submitting the declaration of inheritance. Furthermore, in certain instances, within 30 days of the submission of the inheritance declaration, a request for transfer of the property must be submitted to the Inland Revenue office. Even if more than one person is obliged to submit the declaration, it is sufficient if it is submitted by just one of these persons.

Endowment deeds and other voluntary deeds must be registered electronically within 30 days of the stipulation of the deed if they are done through a public deed or an authenticated private agreement.

6. Assessments and valuations

The taxable base is determined according to the specific rules provided by the Inheritance and Gift Tax Code. For example:

- Immovable properties: The value is based on their fair market value at the moment of death or donation. However, the value declared in the inheritance return cannot be challenged by the tax authorities if it has been determined by applying the so-called "cadastral value" (i.e., a notional value determined by the local land offices), which is normally lower than the market value.
- Listed participations: The value is equal to their average market price in the 90-day period prior to the succession's opening or the gift.
- Shares or quotas in the capital of a nonlisted company: The value is based on the proportional quota of the company's net equity, as resulting from the last balance sheet approved.
- Businesses: The value is based on the value of the single assets and liabilities without including goodwill.
- Bonds: The value corresponds to the value of similar listed securities or, if they are lacking, must be computed on the basis of objective criteria.
- Quotas of investment funds: The value corresponds to the value stated in the reports prepared pursuant to the law or regulatory provisions.

A rebuttable presumption, not applicable to the nonresident deceased, applies whereby cash, jewelry and furniture are deemed to have been transferred for a value of at least 10% of the overall net taxable amount of the assets, even if undeclared or declared for a lesser amount. This presumption can be rebutted only by making an inventory of the properties belonging to the deceased upon death, carried on according to the civil law provisions.

Inheritance tax is self-assessed by the heirs and legatees, or their legal representatives, within one year from the date of the start of the inheritance, which usually coincides with the date of the taxpayer's death.

After receiving the declaration of estate, the relevant local tax authority office sends to the heirs and legatees a settlement notice stating the inheritance tax.

Payment must be made by form F24 within 60 days of the date on which the settlement notice is served. Once this time limit has expired, interest on arrears will be payable in addition to fines.

7. Trusts, foundations and private purpose funds

Before the introduction of Article 4-bis into the Inheritance and Gift Tax Code, Italy did not have an internal law that regulated trusts for inheritance and gift tax purposes; however, trusts are recognized in Italy by Law No. 364/1989 that ratified the Hague Convention of 1 July 1985 on "the law applicable to trusts and to their recognition."

In 2007, the Italian government provided a first set of rules on the tax treatment of trusts. These provisions determine the tax residency of a trust and its taxation: taxation on the trust itself, if the beneficiaries are not identified (i.e., opaque trusts) vs. taxation on the identified beneficiaries of the trust (i.e., transparent trusts).

The criteria to determine whether a trust is resident have not been affected by the recent changes in legislation, which merely introduced rebuttable presumptions of residence for trusts (presumptions apply only to certain trusts settled in a country listed as an uncooperative tax haven by the Organisation for Economic Co-operation and Development (OECD), i.e., in a country not providing for effective exchange of information with Italy). The Italian tax authorities set forth clarifications regarding the application of corporate residence criteria for trusts and the cases in which trusts are disregarded for tax purposes (see, *inter alia*, Circular Letter No. 61/E of 2010). This typically happens when the trust is revocable and in all the other cases in which the trust is irrevocable but the settlor or the beneficiaries have powers, or de facto exercise influence, in relation to the management of the trust and/or distributions to the beneficiaries.

On 20 October 2022, Italian tax authorities published Circular Letter No. 34/E of 2022, which sets out the direct and indirect taxation rules for resident and nonresident trusts.

The Italian tax authorities confirmed that the settlement of goods and rights into a trust generally does not qualify as a taxable event for the grantor; however, the settlement into a trust of (i) selected financial assets and (ii) goods or rights held by an entrepreneur may be subject to taxation so that a case-by-case analysis is always needed at the time of the trust is set up.

Furthermore, Italian tax authorities also confirmed that the distributions to Italian resident beneficiaries are, in some cases, not relevant for income tax purposes; however, Circular Letter No. 34/E of 2022 clarified with respect to opaque trusts that:

- Income distributions from opaque trusts which do not carry out a commercial activity and which are not established in low-tax jurisdictions are not taxable against the trust's beneficiaries.

- The distributions from nonresident opaque trusts established in low-tax jurisdictions (if there is a nominal taxation level lower than 50% of the applicable rate in Italy) are presumed to be capital income; these distributions, to the extent that distributions of income, should be taxable against the Italian resident beneficiaries with progressive rates (up to 43% plus between 2.54% and 3.33% of local taxes). The Italian tax authorities also clarified that it is possible to displace this presumption by demonstrating through account records and non-account records (i.e., financial statements) the distinction between income and capital.
- The distributions of income from Italian resident commercial opaque trusts to the beneficiaries qualify as capital income, and the trusts should also apply the withholding tax to the income distributed.

In case of identified beneficiaries (i.e., transparent trust), namely beneficiaries with a current unconditional right to claim a share of the income generated by the assets held in trust, the income received by the trust is subject to taxation against such beneficiaries even if not distributed to them. Therefore, as long as the same flows of income have been already taxed, the following pay-out to identified beneficiaries should not be relevant for income tax purposes.

With the introduction of Article 4-bis into the Inheritance and Gift Tax Code, paragraph 3 of the same article allows the settlor, or the trustee in the case of testamentary trusts, to prepay the inheritance or gift tax at the time of asset transfer to the trust or upon the opening of the succession. This provision enables the avoidance of future taxation. Furthermore, the option to anticipate the payment of inheritance and gift tax is extended to existing trusts, ensuring equitable treatment across all trusts.

Based on the above, a case-by-case analysis would be necessary to verify the correct tax treatment.

8. Grants

This does not apply to Italy.

9. Life insurance

A life insurance contract is a contract under which a party (the insurer), in connection with certain events in the life of the insured, undertakes, against payment of a premium, to pay a principal sum or an annuity.

In the context of life insurance and capitalization contracts, it is possible to identify:
- Contracts that cover specific risks (e.g., case of death)
- Contracts with primarily financial purposes

Based on the provisions of the Italian Civil Code: Amounts owed by the insurer to the contractor or beneficiary of the insurance policy cannot be subject to enforcement or precautionary action.

Creditors and heirs of the contractor of the policy can claim only the premiums paid by the latter. Upon the death of the insured person, the beneficiaries receive the underlying capital *iure proprio* and *not iure successionis* (as a result, the sums received by the beneficiaries because of the *mortis causa* transfer are not subject to inheritance tax).

Italian income tax law provides a very complex set of rules with respect to the taxation of income deriving from life insurance. The tax treatment depends on several factors (e.g., when the individual bought the insurance, specific terms and conditions of the contract and how the proceeds are paid out).

As a general rule, the policy owner is entitled to a tax credit of 19% of the premiums paid up to a certain threshold.

According to domestic tax law, life insurance and capitalization contracts are subject to the following tax treatment:

- Capital received on death under life insurance contracts covering demographic risk are exempt from personal income tax (IRPEF) (on the contrary, the part of capital that does not cover the demographic risk may be taxed. See the following point)
- If the payment of capital is linked to a financial component, constitutes income from capital the difference between the amount received and the premiums paid. In this respect:
  1. Insurance policy purchased before 1 January 2000: a flat tax rate of 12.5% applies to the difference between the payment received and the sum of the insurance premiums paid. Taxable base is reduced by 2% for each year following the 10th year from the date set up of the policy
  2. Insurance policy purchased after 1 January 2000: the income, as determined above, is subject to the tax rate of:
     - 12.5%, if accrued by 31 December 2011
     - 20%, if accrued in the period comprised between 1 January 2012 and 30 June 2014
     - 26% if accrued as of 1 July 2014

Even after 31 December 2011, the portion of gains deriving from State bonds will be taxed at 12.5%.

In cases where income from the insurance policy is paid to a nonresident of Italy, it will be necessary to verify the provisions of the double-tax treaty in place between the countries involved.

10. Civil law on succession

10.1 Estate planning

Italy has some interesting estate planning opportunities. First, we briefly mention the favorable regime applicable to the transfer *inter vivos* (gift) or *mortis causa* (inheritance) of Italian businesses and shareholdings in Italian resident companies and partnerships.

More precisely, it is exempted from inheritance and gift taxes the transfer[1] of a business or of a participation in companies or partnerships in favor of the spouse or descendants if they carry out an effective business activity for at least five years. With regard to participation in companies, it is also required that the recipient receives a controlling stake or achieves control of the company taking also into account other participations owned before the transfer. A recent judgment of the Italian Supreme Court has confirmed that, in compliance with the freedom of establishment principle, the exemption also applies to UE companies under the same conditions required for the Italian entities.

If during the five-year blocking period the abovementioned requirement is not met (e.g., because the beneficiaries sell a line of business), taxes and penalties will apply.

[1] Even through the so called *Patto di Famiglia*. See below in this section.

Another estate planning tool is represented by the possibility of transferring the family business under the "family contracts" (the so-called *Patto di Famiglia*), which to date, represents the only form of succession agreement allowed by the law in Italy. The *Patto di Famiglia* allows the entrepreneur, through the stipulation of a contract, to transfer, while he or she is still alive, his or her business (or shares or quotas in a company) to the descendant (i.e., sons/daughters and nephews/nieces) whom he or she deems best suited to take over the leadership of the enterprise, providing for adjustments in favor of all the other descendants and those who would be legitimate heirs[2] if, at that time, the entrepreneur's succession were to open.[3] The adjustments must be made in compliance with the forced heirship rules (see Section 10.3). The nonassignees can waive their right. At the opening of the succession, the supervened spouse and other forced heirs may demand from the beneficiaries of the *Patto di Famiglia* (assignees and nonassignees) the payment of a sum corresponding to their share of the legitimacy increased by legal interest. What received by the parties as a result of the *Patto di Famiglia* is not subject to hotchpot and action for reduction.

The Italian Supreme Court has recently clarified that, for gift tax purposes, the adjustments made in the context of the *Patto di Famiglia* are to be considered as gifts made by the entrepreneur (and not by the assignee) to the benefit of the nonassignees. As a consequence, the tax rates and allowances have to be applied based on the degree of kinship between the entrepreneur and the nonassignee (see Section 4).

10.2 Succession

Since Italy is a member of the European Union, EU Regulation No. 650/20 concerning "applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession" applies to the succession of any individuals deceased on or after 17 August 2015.

According to the Regulation in question, as a general rule, the law governing succession is the law of the state where the deceased has habitual residence.

By way of derogation, it is, however, possible for the testator, by way of a *professio iuris*, to choose the law of the state from which he or she derives nationality (at the time of the *professio iuris* or at the time of the death) as the law to govern his or her succession.

Furthermore, where, by way of exception, it is clear from all the circumstances of the case that, at the time of death, the deceased was manifestly more closely connected with another state, the law of that state applies.

Once the law applicable to the succession is identified, such law, subject to certain exceptions, governs the entire succession and thus is applied irrespective of where the assets constituting the estate are located.

Based on the Italian legislation, heirs have universal succession, and unless they refuse to accept the inheritance, they are personally liable for the deceased's debt plus the total taxes due. These obligations are placed upon all the heirs jointly. The heir succeeds to the decedent in all aspects. However, his or her liability is limited to the value of the inheritance received in cases where the heir accepts the inheritance with the benefit of the separation of the property of the deceased from that of the heir (Article 512 of the Italian Civil Code). In such a case, the heir is obliged to make an inventory of property and present it for creditors when relevant.

[2] See Section 10.3.

[3] Like the spouse, who, under the *Patto di Famiglia* can only be indemnified but cannot take of the leadership of the enterprise.

A legatee under a will has only a personal claim against a compulsory heir (subject to forced heirship laws) and is not liable for a decedent's debts, although he or she is liable for relevant taxes on any legacy.

As noted above, and as a general rule, taxation will occur on the basis of worldwide assets if the deceased was an Italian resident, but if the deceased was considered to be a nonresident, taxes are due only for the assets located in Italy, subject to any applicable tax treaties.

10.3 Forced heirship

The rules governing hereditary succession in Italy provide that certain persons, such as spouses, children and legitimate descendants, are considered forced heirs (*heres necessarius*).

This compulsory share or forced heirship is called *legittima*. Forced heirship applies to all of the deceased's assets and to all of the inheritance rights. If the deceased makes a disposition prejudicing the rights of any of these heirs, such dispositions can be challenged before an Italian court and the heirs can make a claim for the associated damages suffered. In the same way, lifetime gifts (donations) can be challenged before an Italian court, even if performed in favor of other legitimate heirs.

In practice, forced heirship rules restrict the ability to decide how assets should be distributed after death.

The following relatives are entitled to receive the following minimum statutory shares, it being further understood that neither burdens nor conditions can be imposed on such shares as listed in the table below.

Only one child and no spouse	One-half of the inheritance assets
Two or more children but no spouse	A total of two-thirds of the inheritance assets in equal shares
One or more *ascendenti* (ancestors)	Generally, parents, but no spouse and no children — one-third of the inheritance assets
Only a surviving spouse	One-half of the inheritance assets and the right to live in the house used as a family home and to use the furniture contained therein
A surviving spouse and a child	To the surviving spouse — one-third of the inheritance assets, the right to live in the house used as a family home and to use the furniture contained therein To the child — one-third of the inheritance assets
A surviving spouse and children	To the spouse — one-quarter of the inheritance assets, the right to live in the house used as a family home and to use the furniture contained therein To the children in equal shares — one-half of the inheritance assets

A surviving spouse and *ascendenti* but no children	To the spouse – one-half of the inheritance assets, the right to live in the house used as a family home and to use the furniture contained therein To the *ascendenti* – one-quarter of the inheritance assets
Separated spouse not charged with separation	Same provisions applying to non-separated spouse (also the right to live in the family house)
Separated spouse charged with separation	Living allowance if at the time of the succession the surviving spouse enjoyed support from the deceased spouse

10.4 Matrimonial laws and civil partnerships

The Italian matrimonial law normally applicable to all property acquired during marriage is joint ownership. However, at any time the spouses can draw up an agreement (in the form of a public deed or specific declaration in case the choice is made on the day of the marriage) in order to elect for separation of property acquired during the marriage. Assets acquired before the marriage remain the separate (individual) property of each spouse.

Pre/post-nuptial agreements dealing with the effects of a future legal separation/divorce (in terms of maintenance rights) are null and void in Italy.

For estate planning purposes, it is possible to set up a patrimonial fund (*fondo patrimoniale*). This may be a unilateral declaration of trust by either of the spouses or a trust formed by a third party in favor of the family by way of a transfer of assets to the spouses as trustees.

With regard to the trust, under certain circumstances the Italian tax authorities would likely consider this kind of arrangement to be equivalent to the setting up of "*vincoli di destinazione*" (i.e., creation of encumbrances or other restrictions on the use of certain assets) and, as a consequence, they would consider it subject to gift tax or inheritance tax. Based on the above, a case-by-case analysis would be necessary to verify whether gift/inheritance tax is applicable or not to a *fondo patrimoniale*.

As far as civil partnerships are concerned, a new law (Law No. 76/2016) entered into force in Italy providing for civil partnerships between same-sex individuals. Following this new law, partnerships previously not recognized by law are now subject to the main rules applicable to heterosexual married couples. As a result, references in the rules to "spouse" have been changed to "partner of a civil partnership." On the contrary, the law has not provided the same extension for cohabitants.

10.5 Intestacy

Under the Italian law of succession, a person may dispose of his or her property or estate for the time after death by will (*testamento*) or, alternatively, let the law deal with this matter.

Based on the Italian Civil Code, succession agreements, or agreements whereby a person disposes of his/her rights under a future succession, are null and void, with the only exception of succession agreements for the transfer of family-owned businesses (see Section 10.1).

When a person dies without a valid will, Italian law states who is going to inherit and how much (*successione legittima*). When a person dies leaving a valid will, the law will ascertain the validity of the will, provide a set of formalities to be complied with and, in some cases, taxes to be paid, and ensure that the will is implemented, and the relevant assets are legally transferred to the persons or beneficiaries entitled (*eredi* or *legatari*).

Italian law will also ensure that the immediate members of the deceased's family are not deprived of their minimum statutory share of the estate (see Section 10.3).

Under Italian law there are three ways to make a valid will:
1. Handwritten will (*testamento olografo*): This is a document handwritten by the person making the will (testator) and which is dated and signed. There is no need for witnesses and no attestation clause. It can be a very simple letter or document.
2. Formal will (*testamento pubblico*): This is a document drafted by an Italian notary upon the instructions of the testator, read by the notary to ensure that it complies with the wishes of the testator and signed by the testator in the presence of witnesses.
3. Secret will (*testamento segreto*): This is a will drafted and written by the testator and placed in a sealed envelope, which is then delivered to an Italian notary.

10.6 Probate

Italian law does not require executors to be appointed; however, when a person dies owning property (land or buildings), it may be necessary to collect documentation, organize certified translations of documents, appoint a local notary and follow special procedures.

After completing the probate procedure, it will be possible to re-register the immovable assets in the name of the heirs (the Italian legal procedure defined as *voltura*).

11. Estate tax treaties

11.1 Unilateral rules

Unilateral relief is available in Italy for residents and nonresidents with respect to foreign gift and inheritance taxes paid on assets situated abroad that are also liable to Italian inheritance and gift tax. The relief is by way of credit, up to a maximum of the Italian tax attributable to those assets. The Inheritance and Gift Tax Code provides an irrebuttable presumption, based on which certain assets are deemed to be in Italy. More precisely, the following assets are considered located in Italy for inheritance and gift tax purposes:
- Assets recorded in the public registers in Italy
- Shares or quotas of companies and participations in entities other than companies that have their registered office or place of administration or main business in Italy
- Bonds and other securities, other than shares, issued by the Italian government or companies and entities that have their registered office or place of administration or main business in Italy
- Securities representing goods located in Italy
- Receivables and checks if the debtor/issuer is resident in Italy
- Receivables secured on property existing in Italy up to the value of such property, regardless of the residence of the debtor
- Goods in transit with the final destination within Italy

11.2 Double-taxation treaties

Italy has concluded inheritance tax treaties with Denmark, France, Greece, Israel, Sweden, United Kingdom and United States of America.

The treaties mentioned above only cover inheritance taxes, with the exception of the Italy-France treaty, which covers gift tax as well.

12. Other

12.1 Indirect taxation on trust and similar structure

As mentioned above, before the introduction of Article 4-bis into the Inheritance and Gift Code, Circular Letter No. 34/E of 2022 sets out indirect taxation rules on trust and similar structures.

More specifically, the Italian Tax Authority modified its previous interpretation that was set forth in Circular Letter No. 48/E of 2007, which had provided that gift/inheritance tax is immediately applicable to the transfer of assets and rights from the settlor to the trust. The change in interpretation was to take into account recent decisions of the Italian Supreme Tax Court and confirms that:

- Except for some residual cases, the transfer of rights and assets into a trust does not constitute an immediate transfer of ownership for the beneficiaries and so should be considered as tax neutral
- The taxable event of gift/inheritance tax shall occur at the time of transfer of property to the beneficiaries
- With regard to trusts, gift/inheritance tax is levied on the worldwide assets transferred by an Italian resident transferor and only on the Italian-situs assets transferred by a non-Italian-resident transferor
- The status of Italian resident or non-Italian resident of the transferor and the location of assets contributed to the trust must be evaluated at the time in which assets are contributed to the trust
- The applicable tax rates and tax-exempt thresholds should be determined based on the relationship between the settlor and the beneficiaries at the time in which assets are transferred to the beneficiaries (see Section 4)
- The taxable base for gift/inheritance tax purposes must be determined at the time in which assets are transferred to the beneficiary

In addition, the Italian Tax Authority clarified that, where gift/inheritance taxes were already applied at the time of settlement of the asset into the trust, relying on the previous interpretation of the Italian Tax Authority, no further tax will be due at the time any assets are subsequently transferred to the beneficiaries if certain conditions are met.

With the introduction of Article 4-bis into the Inheritance and Gift Code, the legislature has set out that taxation of trusts and similar assets for inheritance and gift tax purposes is generally triggered upon the transfer of property to the beneficiaries, but also provides the option to anticipate the taxation at the transfer of rights and assets into a trust. However, it also allows for the option to preemptively tax the transfer of rights and assets into a trust. This provision creates an opportunity to assess and choose between the standard taxation regime (at exit) and the optional regime (at entry), enabling more strategic financial planning.

Japan

EY contacts:

Tokyo

Ernst & Young Tax Co.
Hibiya Mitsui Tower
Tokyo Midtown Hibiya
1-1-2 Yurakucho
Chiyoda-ku
Tokyo 100-0006
Japan

Kenji Ueda
kenji.ueda@jp.ey.com
+81 70 3876 5003

Michiko Nishimura
michiko.nishimura@jp.ey.com
+81 70 3853 3586

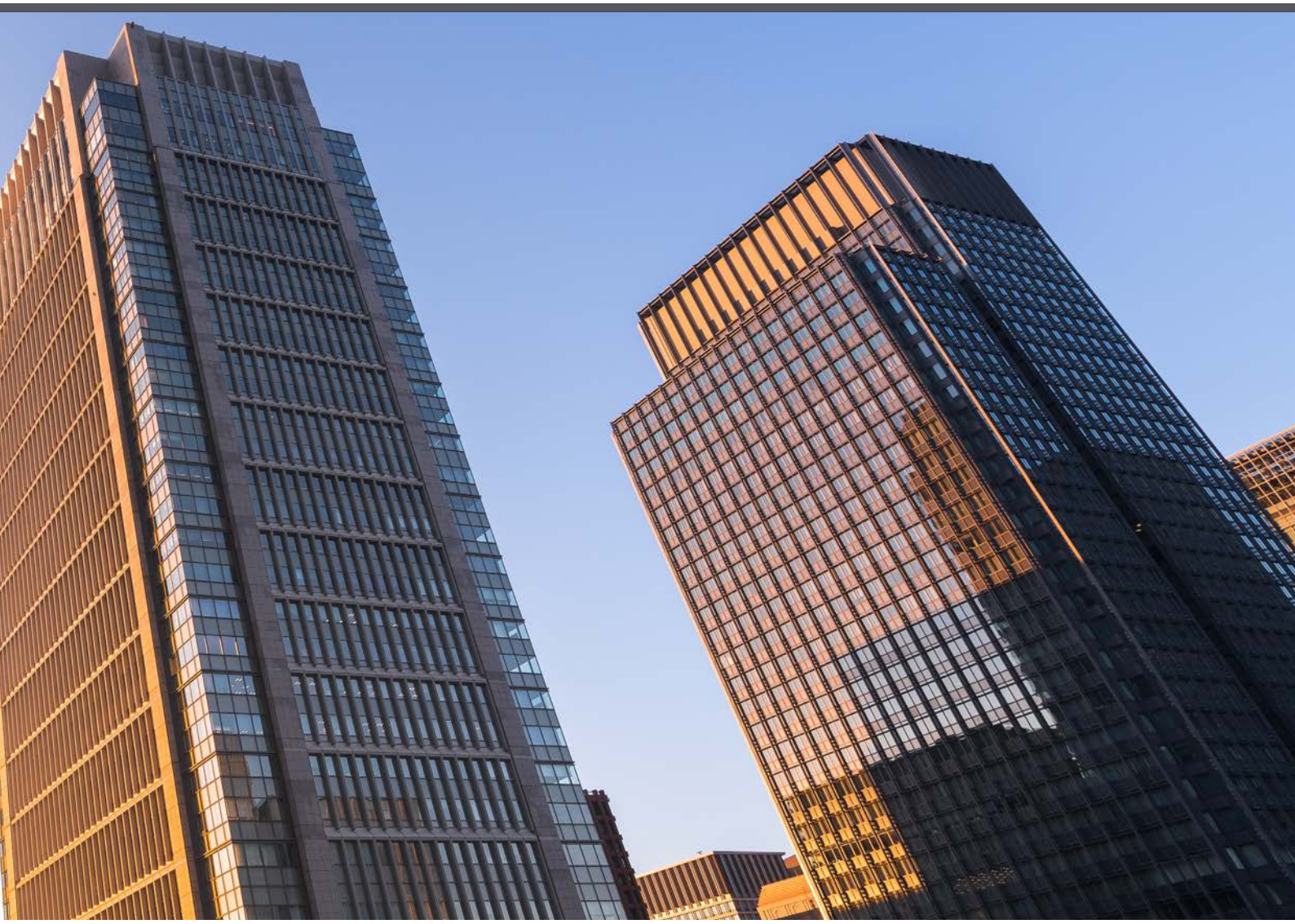
1. Types of tax

1.1 Inheritance tax

The Japanese Inheritance Tax Law (*sozoku zei ho*) covers inheritance tax (*sozoku zei*) and gift tax (*zoyo zei*). Inheritance tax is imposed on an individual who acquires property by inheritance or bequest upon the death of the decedent. Gift tax is imposed on an individual who acquires properties by gift (or economic benefit by deemed gift). Gift tax is supplementary to inheritance tax. Both taxes are national taxes and no local tax is assessed on the transfer of property due to inheritance or a gift.

Computation of inheritance tax

Inheritance tax is imposed on the aggregate value of all net taxable properties acquired by inheritance or bequest minus a basic exemption. However, the individual heirs are taxed, not the estate. Inheritance tax is calculated, assuming that each statutory heir inherits based on its statutory



share, regardless of how and to whom the property is to be distributed. Then, the total amount of tax calculated is allocated between those who actually received the decedent's properties in accordance with his or her will or as agreed upon by the heirs. The total amount of tax is calculated based on the statutory heirs and legatees, whereas the tax liability is attributed to those who actually acquired the properties.

Computation

The computation is based on the following steps:

- Aggregate the amount of taxable properties assumed to be acquired by all heirs and legatees (net of the liabilities succeeded), "aggregated taxable estate value"
- Deduct the basic exemption of JPY30 million plus JPY6 million multiplied by the number of statutory heirs from the above "aggregated taxable estate value"

- Allocate the aggregated taxable estate value to each statutory heir according to their statutory share
- Calculate the inheritance tax separately for each statutory heir's portion allocated above by the application of the following progressive rates (JPY):

Up to 10 million	10%
Above 10 million up to 30 million	15%
Above 30 million up to 50 million	20%
Above 50 million up to 100 million	30%
Above 100 million up to 200 million	40%
Above 200 million up to 300 million	45%
Above 300 million up to 600 million	50%
Above 600 million	55%

- Aggregate the inheritance tax calculated above, "aggregated inheritance tax"
- Allocate the aggregated inheritance tax to each of the heirs and legatees based on the ratio of the value of the taxable properties actually acquired by him or her against the aggregated taxable estate value
- A 20% surtax is imposed on heirs or legatees of anyone who is not the decedent's spouse, the decedent's parents or the decedent's children. Where the decedent's grandchild became the decedent's adopted child (while the child is still alive), he or she is also subject to a 20% surtax.
- Deduct applicable tax credits for each heir (see Section 4)

The property acquired by a gift from the deceased in principle within seven years* of the death of the deceased is regarded as estate property, subject to inheritance tax, except for the total value of the acquired properties not exceeding JPY1 million in the years first four years during the seven years, if the inheritance occurs on or after 2 January 2027.

*Note: There are some grandfather provisions to attenuate impacts arising from the extension of the addback period. For example, the period of three years is still applied to inheritance and/or gift between 1 January 2024 and 31 December 2026.

1.2 Gift tax

Gift tax is imposed on individuals who acquire property by gift during the lifetime of the donor. Gift tax is also imposed on economic benefits received by deemed gift. Gift tax is imposed annually, but settlement at time of inheritance tax may be elected (see 5. Filing procedures).

Computation of gift tax

The taxable base of gift tax is determined as the value of properties obtained by a gift (or by a deemed gift) during each calendar year, after an annual basic exemption of JPY1.1 million is applied. The applicable tax rates are as follows:

Those other than as described on the right		**Where donee is 18 years of age or older and donor is his or her lineal ascendant/descendant**	
Tax base (JPY)	**Rate**	**Tax base (JPY)**	**Rate**
Not more than 2 million	10%	Not more than 2 million	10%
Above 2 million up to 3 million	15%	Above 2 million up to 3 million	15%
Above 3 million up to 4 million	20%	Above 3 million up to 4 million	15%
Above 4 million up to 6 million	30%	Above 4 million up to 6 million	20%

Those other than as described on the right		Where donee is 18 years of age or older and donor is his or her lineal ascendant/descendant	
Tax base (JPY)	**Rate**	**Tax base (JPY)**	**Rate**
Above 6 million up to 10 million	40%	Above 6 million up to 10 million	30%
Above 10 million up to 15 million	45%	Above 10 million up to 15 million	40%
Above 15 million up to 30 million	50%	Above 15 million up to 30 million	45%
Above 30 million	55%	Above 30 million up to 45 million	50%
		Above 45 million	55%

1.3 Real estate transfer tax

Registration and license tax

The registration of the transfer of ownership of real property by inheritance is subject to registration and license tax at the rate of 0.4% of assessed value of the land and building. The registration of the transfer of ownership by gift or sales is generally subject to registration and license tax at a standard rate of 2%.

Real estate acquisition tax

The acquisition of real property by gift or sale is generally subject to real estate acquisition tax at 4%. As a temporary measure, the acquisition of land and residential buildings is subject to real estate acquisition tax at a reduced rate of 3% until 31 March 2027. The tax base of the land for residential purposes is further reduced by 50%. However, the acquisition of real property by inheritance is exempt from real estate acquisition tax.

1.4 Endowment tax

There is no endowment tax in Japan. As described in Section 4, if the heir makes donations of property to certain specified nonprofit organizations or foundations of the Japanese government or a local public organization by the filing due date of the inheritance tax, the property is exempt from the inheritance tax.

1.5 Transfer duty

There is no transfer duty other than real estate transfer taxes (see Section 1.3).

1.6 Net wealth tax

There is no net wealth tax in Japan.

2. Who is liable?

2.1 Unlimited liability

Nationality and domicile

In principle, an heir or donee who is domiciled in Japan upon acquisition of property by inheritance, bequest of a decedent or by gift has unlimited liability for inheritance tax or gift tax, regardless of his or her nationality (exception applies to a temporary staying non-Japanese person). In cases where an heir or donee has Japanese nationality but is not domiciled in Japan at the time of property acquisition, he or she will still be subject to unlimited liability if either the heir or the deceased, or the donee or the donor has been domiciled in Japan at any time within 10 years immediately before the time of death of the decedent or at the time of the gift (unlimited liability taxpayer with Japanese nationality). In cases where an heir or donee without Japanese nationality is not domiciled in Japan, he or she is also subject to unlimited liability if the deceased or the donor is domiciled in Japan at the death of the decedent or at the time of the gift or had a domicile in Japan anytime within the 10 years preceding the inheritance or gift.

Unlimited liability taxpayers are subject to inheritance tax or gift tax on all of the properties acquired regardless of whether the properties are located in or outside Japan.

Temporary staying non-Japanese

There are special treatments for a person without Japanese nationality who is domiciled in Japan but is considered temporarily staying in Japan. A person without Japanese nationality having a visa issued under table 1 of the Immigration Act is considered temporarily staying in Japan.

If an heir or donee is temporarily staying in Japan, whose total period of being domiciled in Japan is, in aggregate, 10 years or less within the past 15 years before the inheritance or gift, such person is treated as a limited liability taxpayer subject to inheritance tax or gift tax only on properties located in Japan, to the extent that the properties are acquired from a deceased/donor, either who is also temporarily staying in Japan at the death or at the time of the gift, or who has not domiciled in Japan in the last 10 years.

Domicile

For the purposes of inheritance tax and gift tax, a "domicile" is defined as the principal base of living, which is determined based on facts and circumstances. The following individuals (as heirs or donees) having Japanese nationality or permanent resident visa will be treated as being domiciled in Japan, although they are actually located outside Japan:

- An individual who is studying abroad and is treated as a dependent of a Japanese resident for Japanese income tax purposes
- An individual who is assigned to work or provide personal services outside Japan for a period of approximately one year or less

2.2 Limited liability

If a deceased or a donor has not been domiciled in Japan in the last 10 years and: i) an heir or donee who is of Japanese nationality and has not been domiciled in Japan in the last 10 years or ii) an heir or donee who is without Japanese nationality and does not have a domicile in Japan at the time of death of the decedent or at the time of the gift, then the heir or donee is categorized as a limited liability taxpayer. The limited liability taxpayer is subject to inheritance tax or gift tax only on the properties situated in Japan.

If a deceased or a donor is a temporarily staying non-Japanese person at the time of death or at the time of the gift, an heir or donee is not subject to inheritance or gift taxation relating to the properties situated outside of Japan, if he/she is:

- A Japanese national who has not domiciled in Japan in the last 10 years
  Or
- A non-Japanese national who is not domiciled in Japan at the time of the inheritance or the gift

Whether the property is situated in Japan or not is determined based on the following location rules:

Kind of property	Location
Personal property	Place where the property is located
Real property	Place where the real property is situated
Ships or aircraft	Place where they are registered
Mining or quarry rights	Location of the mine or quarry
Fishing concession rights	Place of the coast nearest to the fishing grounds
Deposits with a bank	Location of the office deposited
Insurance proceeds	Location of the head office or the principal office of the insurance company that issued the policy
Retirement allowances	Location of the head office or the principal office of the payer company
Loans	The domicile, the head office or the principal office of the debtor
Shares in a company or bond and debentures issued by a company	Place where the issuing company has the head office or the principal office
Interests in collective investment trusts or taxable trusts	Location of the trustee's office
Patents, trademarks, etc.	Place where they are registered
Copyrights or publishing rights	Location of the publisher's office
Trade receivables, goodwill and other rights related to business operation	Place of business to which they are related
Japanese government bonds	Japan
Foreign government bonds	Country of issuance
Others	The domicile of the deceased or the donor

3. Rates

Progressive rates (10% to 55%) are applicable, with an exception of gift tax settlement at time of inheritance tax (20% flat rate) (see below).

4. Exemptions and reliefs

Exemptions and tax credits

There are several asset or purpose-related exemptions and personal exemptions as well as tax credits.

Main items of exemptions

- Donations of properties to certain specified nonprofit organizations or foundations of the Japanese government or a local public organization if the heir makes the donation by the filing due date of the inheritance tax
- JPY5 million per statutory heir for life insurance proceeds (as deemed estate property)
- JPY5 million per statutory heir for retirement allowance (as deemed estate property)
- Only a certain portion (e.g., 20%) of the acquisition of small-scale business or residential land is subject to inheritance tax. A maximum of 330 sq. meters of land used as a residence and a maximum of 400 sq. meters of land used for business qualifies for this treatment.

Main items of tax credits

- As for inheritance tax to be paid by a spouse, the portion of tax due attributed to the spouse pursuant to the statutory share (the greater amount of the spouse's statutory share or JPY160 million) is creditable against the spouse's inheritance tax due.
- For minor heirs under 18 years old, JPY100,000 x (18 – heir's age).
- For handicapped heirs, JPY100,000 (JPY200,000 in the case of special disabilities) x (85 – heir's age).
- If a decedent has paid by himself or herself inheritance tax for the acquisition of property within 10 years immediately preceding his or her death, a portion of the heir's inheritance tax will be creditable according to a certain formula.
- A foreign tax credit is available to avoid double taxation on the inheritance.

Example

Assuming that (i) the heirs are the spouse and a child (in this case, the portion of statutory share is 50% for each); (ii) the aggregated taxable estate value is JPY1 billion and the aggregated inheritance tax due is JPY395 million; and (iii) the spouse inherits the properties in the amount of JPY500 million, no inheritance tax is payable by the spouse, since tax due attributed to the spouse is based on the statutory share (i.e., JPY197.5 million; JPY395 million x JPY500 million/JPY1,000 million) and the same amount of the credit is applied. The child will have a tax liability of JPY197.5 million (i.e., JPY395 million x JPY500 million/JPY1,000 million).

Gift tax exemptions

The following are exempt from gift tax:

- Gifts from a corporation, which are subject to income tax
- Gifts to dependents for living expenses and education
- Gifts of education funds up to JPY15 million to dependents, made from 1 April 2013 to 31 March 2026, subject to certain conditions
- Gifts of child-rearing and marriage funds up to JPY10 million to dependents, made on or before 31 March 2025 (further extension up to 2027 is proposed), subject to certain conditions
- Gifts to a person engaged in activities for religious, charitable, scientific, educational or social welfare purposes to be used for such activities
- Gifts of money or goods from a specified public interest trust to students or pupils to support their educational costs
- Providing a right to receive a subsidy from a local public organization to a handicapped person
- Qualified donations to a candidate for a public election campaign, which are duly reported
- Obtaining trust beneficiary rights up to JPY60 million by a special handicapped person according to a special support arrangement

- One-time exemption of up to JPY20 million of the value of a residential property transferred from a spouse, where the period of marriage is 20 years or more and where the donee uses the property for residential purposes
- Exemption of up to JPY10 million (JPY15 million for energy-saving, earthquake resistant, barrier-free house) per donee from 1 April 2020 to 31 December 2026 for gifts made in cash by parents to their children of age 18 years or older to acquire a residential house

5. Filing procedures

Filing procedures

The inheritance tax return must be filed within 10 months from the time that the taxpayers become aware of the start of the succession, with the relevant tax office having jurisdiction over the domicile of the deceased. Where two or more taxpayers are domiciled in Japan, a joint tax return will be filed. If the deceased is not domiciled in Japan at the time of death, each heir domiciled in Japan files his or her tax return with the tax office having jurisdiction over his or her domicile. If neither the decedent nor heir is domiciled in Japan, the heir may elect any tax office for filing purposes.

Tax payment

In principle, the inheritance tax must be paid in one lump sum in cash by the filing due date. A deferral of the tax payment may be allowed up to 20 years. Furthermore, if a lump-sum cash payment is not possible, inherited property for payment in kind is allowed. The advantage of payment in kind is to avoid income taxation on capital gains, if any, arising from a sale of the inherited property in order to finance the tax payment.

Gift tax settlement at time of inheritance tax

The rates for the gift tax are generally higher than those for inheritance tax. This is intended to prevent the avoidance of inheritance tax. Gift tax is, in principle, settled on a calendar-year basis but there is an exception to this general rule, i.e., a special taxation system for settlement at the time of inheritance by election, which was introduced in 2003 in order to promote a smooth hand down of property through gifts from living parents to their children. When a parent or grandparent who is 60 years of age or older makes a gift to an adult child or grandchild of age 18 years or older, the following can be elected:

- If the total amount of the donated properties per year does not exceed the amount of JPY1.1 million plus JPY25 million (accumulated value of donated properties by the same donor), no gift tax is payable.
- If the total amount of the donated properties exceeds JPY25 million plus JPY1.1 million multiplied by the number of years during which gifts were made, a fixed tax rate of 20% is applied to the excess portion to calculate the gift tax due.

At the time of the parent's or grandparent's death, the above properties will be added to the taxable estate assets and will be subject to inheritance tax. JPY1.1 million multiplied by the number of years during which the gifts were made may be deducted from the value of the above properties. The child or grandchild who elected the special taxation system will credit the gift tax already paid against his or her inheritance tax due. If the already-paid gift tax exceeds the inheritance tax liability, the excess portion will be refunded.

The above additional deductions of JPY1.1 million are applicable to gifts received on or after 1 January 2024. Once this settlement method is elected, taxes on all gifts made by the same donor to the same donee should be settled at time of inheritance.

Filing procedures of gift tax

A gift tax return must be filed and gift tax must be paid by 15 March of the year following the gift.

6. Assessments and valuations

Valuation of the property

Introduction

The taxable base of properties for inheritance tax and gift tax purposes is the fair market value at the time of the transfer.

However, the Japanese tax authorities-issued Basic Property Valuation Circular introduced deals with a specific method of valuation for various properties, including land, buildings, tangible and intangible assets, shares in companies, bonds and debentures.

Land

The value of land is generally determined based on the assessed value[1] that the tax authorities annually publish.

Shares

The value of listed shares and shares traded over the counter is generally calculated based on the share price on the valuation date. However, the lowest of the monthly average prices for the month, including the valuation date and the two preceding months, may be used. The value of unlisted shares is calculated based on the size of the company depending on the number of employees, gross assets and annual sales.

- Large company — comparative value of similar industry company:
  - The value of unlisted shares in a large company is calculated based on the share price of comparable listed companies.
  - Small company — net asset value method:
  - The value of unlisted shares in a small company is calculated based on the net asset revaluated for inheritance tax purposes.
- Medium company:
  - The value of unlisted shares in a medium company is calculated based on the combination of the comparative value of similar industry company and net asset value methods.

However, unlisted shares acquired by a certain minority shareholder are calculated based on a dividend discount method.

7. Trusts, foundations and private purpose funds

Trusts

For Japanese tax purposes, a trust is treated as either transparent, not transparent and not a taxable entity, or a corporation, depending on its legal character. When an individual acquires trust beneficiary interests due to a death or without arm's-length consideration (i.e., by a deemed gift), inheritance tax or gift tax will be assessed on such individual.

Under a 2007 revision of the Japanese Trust Law, new types of trusts have become available:

- Trusts substituting testaments
- Trusts under which the subsequent beneficiaries can be designated in advance

By settling the latter type of trust, for example, the settlor of the trust designates his or her spouse as the beneficiary after his or her death and also designates his or her child as the beneficiary after the spouse's death. This newly introduced arrangement of designating subsequent beneficiaries cannot be done by testament. For inheritance tax purposes, the new beneficiary is regarded as obtaining a beneficiary interest from the preceding beneficiary.

[1] Roadside value per square meter of land or *rosenka*.

Foundations and private purpose funds

The properties transferred from the heir to a noncorporate charitable organization, including foundations and private purpose funds, are subject to inheritance or gift tax, but an exemption may be available if the properties transferred from the heir to such charitable organization are to be used only for authorized charity under Japanese laws. A corporate charitable organization is not subject to inheritance or gift tax but is subject to corporate income tax on gains by the gift. However, if the recipient of the gift is an authorized nonprofit organization and its income is derived from nonprofit activities (i.e., charity), such income is exempt from corporate income tax.

8. Grants

There is no general death grant, but if a burier applies, he or she may be able to receive a payment from a Social Security benefit (i.e., health insurance) to cover the cost of the burial.

9. Life insurance

For purposes of the civil law, life insurance proceeds are considered as properties of a recipient. On the other hand, life insurance proceeds are treated as a receipt of the property upon succession for tax purposes (i.e., subject to inheritance tax).

10. Civil law on succession

10.1 Estate planning

The Japanese Civil Code prescribes the types of wills.

10.2 Japanese civil law on succession

Succession

According to the Japanese Civil Code, all rights and obligations of the decedent transfer to heirs automatically and comprehensively at the time of his or her death. For example, at the time of the decedent's death, all heirs jointly own the estate properties, which are then distributed among the heirs as previously agreed upon. If an heir wants to waive the inheritance or accept the inheritance to the extent of the positive assets, notification to a family court has to be made within three months from the date the heir is informed of his or her inheritance.

According to Article 36 of the Act on General Rules of Application Laws, the law of the deceased's home country (nationality) governs succession.

There are no regional rules on succession law (Civil Code) in Japan.

Statutory heirs (*houtei sozokunin*)

The Japanese Civil Code prescribes for statutory heirship. The decedent's spouse is always a successor. Other than a spouse, the Civil Code provides three priority levels for successors. The spouse always becomes a successor of equal rank to a successor in any of the priority levels. Anyone in the lower priority groups will not become a successor if a higher priority person is alive at the time of the opening of the succession.

An individual who waives an inheritance is not regarded as an heir upon waiver.

The actual allocation of estate properties is made based on agreement among the heirs. The above statutory share is applicable in the case where an agreement is not reached among the heirs.

10.3 Mandatory heirship – legally secured portion of succession (*iryubun*)

The Japanese Civil Code provides mandatory heirship rules enabling certain persons to claim a share of an estate if they are excluded from succession by the decedent's last will. Even if the deceased determines the allocation of his or her estate property by testament, his or her spouse, lineal ascendants and lineal descendants as the heirs have a right to receive the following share, as a total, of the estate under the mandatory heirship rules, and can request equivalent cash payment:

- When the heirs do not include the spouse and only lineal ascendants: one-third of the estate property
- Other cases: one-half of the estate

Brothers and sisters are not entitled to claim mandatory heirship.

Priority groups of statutory heirs and mandatory heirship:

Order	Statutory heirs	Statutory shares	Mandatory heirship
1	Son(s) and daughter(s) of the deceased (if the sons and daughters are already deceased, lineal descendants of these sons and daughters)	Spouse: one-half Children: one-half in total (equally for each)	Spouse and children: one-half in total Children only: one-half in total
2	Lineal ascendants of the deceased (i.e., father, mother, grandfather, grandmother)	Spouse: two-thirds Lineal ascendants: one-third in total (equally for each)	Spouse and lineal ascendants: one-half in total Lineal ascendants only: one-third in total
3	Brother(s) and sister(s) of the deceased (if the brothers and sisters are already deceased, their sons and daughters)	Spouse: three-quarters Brother(s) and sister(s): one-quarter in total (equally for each)	Spouse, brother(s) and sister(s): one-half for spouse only; no mandatory heirship for brother(s) and sister(s)

10.4 Matrimonial regimes and civil partnerships

In Japan, the matrimonial property regime of strict separation is applied, under which each spouse holds his or her property independently in separate ownership.

Due to the revision of the Civil Code in 2018, the spouse of the decedent acquires the spouse's residence right in certain cases when he/she lived in the building owned by the decedent at the time of the start of inheritance. The spouse's residence right refers to the right to use free of charge for the life of the spouse or for a certain period of time.

10.5 Intestacy

A will is a legal document that regulates an individual's estate after death. As Japan has ratified the 1964 Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions, the validity of a foreign-form will may be admitted.

If there is no will, the estate properties will be allocated among the statutory heirs pursuant to their agreement on the allocation. Until such agreement is reached, the estate properties are treated as being jointly owned by the heirs. Income earned from the properties during such period is subject to income taxation and the tax liability is allocated among the statutory heirs pursuant to their respective statutory shares.

10.6 Probate

There is no probate system in Japan. All properties are comprehensively transferred to the heirs at the time of the deceased's death.

11. Estate tax treaties

11.1 Unilateral rules

This is not applicable in Japan.

11.2 Double-taxation treaties

Japan has concluded only one estate tax treaty; it is with the United States and was agreed to in 1955. This tax treaty is not based on the Organisation for Economic Co-operation and Development's inheritance tax treaty model.

Luxembourg

EY contacts:

Luxembourg City

EY Tax Advisory Services S.à r.l.
35E, John F. Kennedy
Luxembourg
L-1855
Luxembourg

Bart Van Droogenbroek
bart.van.droogenbroek@lu.ey.com
+352 42 124 7456

Christophe Joosen
christophe.joosen@lu.ey.com
+352 42 124 7222

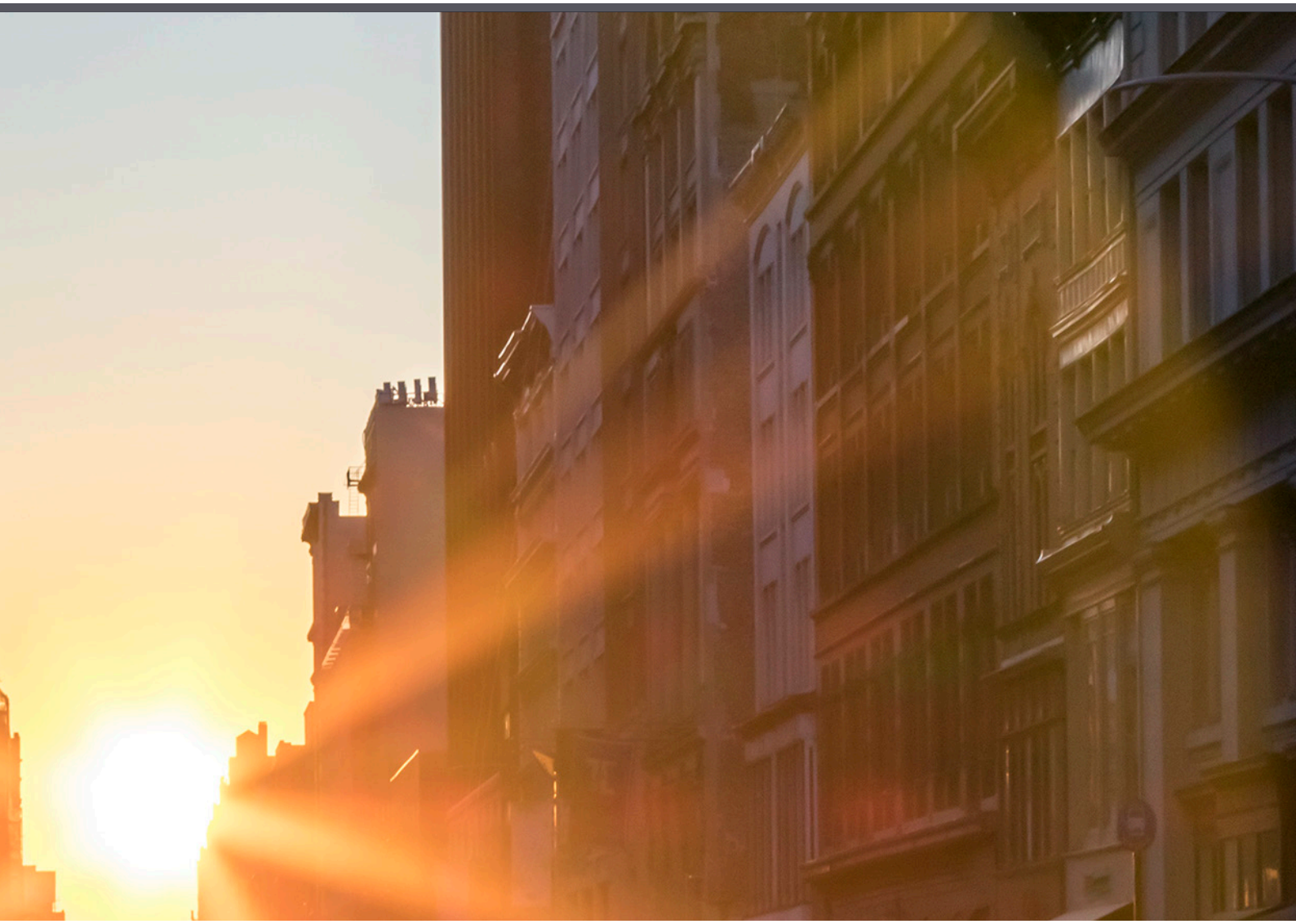
1. Types of tax

Under Luxembourg law, inheritances and gifts are subject to indirect taxes. The *Administration de l'enregistrement, des domaines et de la TVA* levies these taxes and is authorized to collect, *inter alia,* inheritance tax and registration duties, such as gift taxes and property transfer tax. This administration is not responsible for collecting income taxes.

Inheritance tax applies to the value of an individual's estate when he or she dies. Gift tax is due on the transfer of assets made during the individual's lifetime.

1.1 Inheritance tax

Inheritance tax is levied on the whole estate left by an inhabitant of the Grand Duchy of Luxembourg at the time of his or her death, except for real estate located abroad and, upon conditions, movable goods located abroad that are taxed by reference to the citizenship of the deceased. Inheritance tax is due in Luxembourg wherever the heirs are resident.



1.2 Death duty

Death duty is levied on real estate located in Luxembourg that is left by a person who is not an inhabitant of Luxembourg. No tax is due on movable property located in Luxembourg and owned by a person who is not an inhabitant of Luxembourg.

1.3 Gift tax

Tax is levied on gifts made during the individual's lifetime (*inter vivos* gifts).

A notarial deed is in principle required to evidence gifts under Luxembourg law. Gifts made in writing must be registered with the *Administration de l'enregistrement, des domaines et de la TVA* and are subject to registration duties (i.e., gift taxes). Gifts that are not required to be made in writing (e.g., gifts of movable assets transferred by hand delivery (*don manuel*)) are generally accepted without notarial deed and thus without registration. However, such gifts may be subject to registration duties if another registered deed refers to them.

Gift taxes may be fixed or based on a percentage. The fixed duty is EUR12. The percentage duty depends on the degree of relationship between the donor and the donee. For gift tax purposes, the fiscal domicile of the donee and the donor are irrelevant. Moreover, gifts of immovable property may be subject to an additional transfer duty of 1% (*droit de transcription*) to cover the property transfer in the public register.

Inter vivos gifts to direct-line heirs, which qualify as ancestors' partition (*partage d'ascendants*), are exempt from transfer duty. Ancestors' partition is a method through which a person can distribute his or her estate or part of it during his or her lifetime to his or her direct heirs.

2. Who is liable?

2.1 Inheritance tax and death duty

The whole estate of a person is deemed to be liable to inheritance tax if they are a Luxembourg inhabitant, i.e., if a person has their domicile or the center of their activities in Luxembourg. An individual's tax domicile is the place where he or she has established effective and permanent residence, while the center of his or her activities is the place from which they manage or supervise their assets. Otherwise, only death duty will be levied on the sole real estate located in Luxembourg.

2.2 Gift taxes

Immovable property

Real estate located in Luxembourg is subject to gift tax at a percentage rate, even if the transfer deed is executed abroad.

If the real estate is located abroad, only a fixed duty of EUR12 is due, even if the deed is registered in Luxembourg.

Additional gift duties may be applicable by virtue of a municipal surtax of a further 50% of the tax if the real estate (except housing property or building land) is located within the municipality of Luxembourg City or Mamer.

Movable property

Gifts of movable property, which are made in Luxembourg by notarial deed, are subject to percentage gift taxes wherever the movable property is located.

Gifts of movable property, which are made abroad, are not subject to percentage gift taxes if the gift is made by notarial deed and the transaction takes place entirely abroad. However, a fixed duty of EUR12 is due if the act is voluntarily registered in Luxembourg.

3. Rates

3.1 Inheritance tax rates

Each beneficiary is separately taxed based on the net share attributed to him or her less personal allowances available.

The tax rates differ depending on the degree of relationship between the heir and the deceased.

	Inheritance tax and death duty tax rates	
Degree of relationship	**Tax rate for the statutory share**	**Tax rate exceeding the statutory share**
Direct heirs	0%	2.5% or 5%*
Between spouses or partners registered for at least three years	0%	0%
Between siblings	6%	15%
Between uncles or aunts and nephews or nieces	9%	15%
Between the adopting parents and the adopted children in the case of a simple adoption (with no tax-favorable treatment)	9%	15%
Between great-uncles or great-aunts and great-nephews or great-nieces	10%	15%
Between the adopting parents and the descendants of the adopted children in case of a simple adoption (with no tax-favorable treatment)	10%	15%
Between other relatives or unrelated parties	15%	15%

**In cases where a direct heir receives a legacy exceeding his or her intestacy share (e.g., under a will), a tax of 2.5% is computed on the part that represents the disposable portion of the estate. If the legacy exceeds the disposable portion, the excess will be taxed at 5%.*

The rates mentioned above are increased by adding the following rates to the extent that the share received by each heir exceeds a net taxable amount of EUR10,000.

Scale		**Tax rate increase**
From EUR	**Up to EUR**	
10,000	20,000	1/10
20,000	30,000	2/10
30,000	40,000	3/10
40,000	50,000	4/10
50,000	75,000	5/10
75,000	100,000	6/10
100,000	150,000	7/10
150,000	200,000	8/10
200,000	250,000	9/10
250,000	380,000	12/10
380,000	500,000	13/10
500,000	620,000	14/10
620,000	750,000	15/10
750,000	870,000	16/10
870,000	1 million	17/10
1 million	1.25 million	18/10
1.25 million	1.5 million	19/10
1.50 million	1.75 million	20/10
1.75 million	–	22/10

With reference to the table above, the inheritance tax rate can reach a maximum of 48% (i.e., 15% + (22/10 x 15%) = 48%).

3.2 Inter vivos gift tax rates

The tax rates differ depending on the degree of relationship between donee and donor.

	Gift tax rates (including a 2/10 increase)
In favor of direct heirs, without reintegration exemption *(sans dispense de rapport)*	1.80%
In favor of direct heirs, with reintegration exemption *(avec dispense de rapport en nature ou par préciput et hors part)*	2.40%
Ancestors' partitions – attribution of shares without exceeding the statutory shares	1.80%
Ancestors' partitions – attribution of shares exceeding the statutory shares but within the disposable portion	2.40%
Ancestors' partitions – attribution of shares exceeding the statutory share and the disposable portion	3.00%
Between spouses or partners registered for at least three years	4.80%
Between spouses for gifts made through a marriage contract or in contemplation of marriage	2.40%
Between siblings	6.00%
Between siblings for gifts made through a marriage contract or in contemplation of marriage	3.00%
In favor of municipalities, public institutions, hospices, social offices, non-registered charities, foundations and legal persons of religions recognized by the government	4.80%
In favor of foundations providing scholarships for universities and higher education institutions	0.00%
Between uncles or aunts and nephews or nieces	8.40%*
Between the adopting parents and the adopted children	8.40%*
Between the father-in-law or the mother-in-law and the son-in-law or the daughter-in-law	8.40%*
Between great-uncles or great-aunts and great-nephews or great-nieces	9.60%**
Between the adopting parents and the adopted children's descendants	9.60%**
Between all relatives having a lower kinship than those mentioned above	14.40%***
Between the father-in-law or the mother-in-law and the son-in-law or the daughter-in-law in the case where the deceased spouse has not left any common children or descendants of them	14.40%***

*The rate is reduced to 4.20% if the gifts are made through a marriage contract or in contemplation of marriage.

**The rate is reduced to 4.80% if the gifts are made through a marriage contract or in contemplation of marriage.

***The rate is reduced to 7.20% if the gifts are made through a marriage contract or in contemplation of marriage.

4. Exemptions and reliefs

4.1 Inheritance tax and death duty exemptions

Inheritance tax and death duty exemptions apply in the following cases:

- Any direct heirs' inheritance (except for the share exceeding the statutory share)
- Any inheritance between spouses or civil partners who have been registered for at least three years
- Any inheritance if its net value does not exceed EUR1,250
- Any legacy received by certain registered charities

To avoid double taxation on property transfers, Luxembourg law applies unilateral exemption in the following cases:

- Real estate located abroad that is part of the inheritance of an inhabitant of the Grand Duchy of Luxembourg. The real estate must, however, be declared in Luxembourg. A proportionate part of its value will constitute a deductible liability.
- Movable goods located abroad that have been taxed abroad by reference only to the citizenship of the decedent.

4.2 Personal allowances and reliefs

Gift duty is reduced by 50% if gifts are made under the terms of a marriage contract or if a gift is made in view of a marriage.

5. Filing procedures

5.1 Date for payment of tax

Inheritance tax must be paid within six weeks of receipt of the assessment issued by the local tax authorities. In the event of failure to pay within the prescribed period, one-tenth of the tax shall be paid as fine.

The Luxembourg inheritance tax legislation foresees that the estate of nonresident heirs is frozen until they provide an additional guarantee. However, this provision does not apply for Luxembourg resident heirs or legatees and for heirs and legatees having their residence in the European Economic Area (EEA).

With respect to gift tax, registration duties are due at the date of registration.

5.2 Filing procedure

The heirs and legatees must file a detailed declaration within six months of the date of the death if the death occurs in Luxembourg. The filing deadline may be postponed if the death occurs abroad.

This procedure is mandatory even if no inheritance tax is due.

If the deceased is not domiciled in Luxembourg, an individual who inherits real estate must file a declaration at each local tax office where the real estate property is located.

For exempt successions (i.e., direct heirs' inheritance or inheritance between spouses/registered partners) where no Luxembourg inheritance is due, the certificate that is issued by the "*Administration de l'enregistrement, des domaines et de la TVA*" will also be valid for the civil law matters. This means that third parties holding the inherited assets (e.g., banks) are obliged to accept the tax certificate as a proof.

6. Assessments and valuations

6.1 Valuation rules and determination of the tax basis

Inheritance tax is levied on the fair market value (FMV) of the inherited assets less the liabilities of the deceased existing at the time of death (e.g., professional liabilities, domestic liabilities, funeral costs and unpaid taxes).

Death duty is levied on the FMV of the inherited real estate without any other deduction than the debts in relation with the Luxembourg real estate.

With respect to gift tax, no deductions are available for gift tax purposes.

The taxable amount is established on the basis of the following valuation rules:
- Real estate is valued at its FMV as of the date of death or gift (an expert valuation may be requested).
- A usufruct over movable goods or real estate is valued, as described below, under gifts with reservation.
- Shares, bonds and accrued interest are valued at their FMV at the date of death or gift.
- Stocks listed on the stock exchange are valued at their FMV at the date of death or gift.

Special valuation rules exist with respect to the valuation of long leases, life annuities, property rents and other periodical remunerations.

For the purpose of determining the inheritance tax basis, the following assets are deemed to be aggregated to the taxable asset base:
- Gifts made by the decedent within the year preceding his or her death, unless they were duly subject to gift duties
- Cash or other valuable assets a third party receives without tax, pursuant to a contract entered into by the deceased for the benefit of that third party (e.g., life insurance for the benefit of another) if no gift duties were paid at the date of the contract
- Movable goods or real estate property sold to one of the heirs within the three months preceding the death of the seller in cases where he or she reserved the usufruct over them
- Any liability written off under a testamentary document and, accordingly, treated as a legacy

6.2 Usufruct and bare ownership

A gift where the donor has transferred the bare ownership of his or her assets (reserving the usufruct) is subject to gift taxes.

The value of the bare ownership and the usufruct (life usufruct) is determined according to the age of the donor at the time the gift is made.

Donor age	Usufruct	Bare ownership
Less than 20	90%	10%
Between 20–29	80%	20%
Between 30–39	70%	30%
Between 40–49	60%	40%
Between 50–59	50%	50%
Between 60–69	40%	60%
Between 70–79	30%	70%
Between 80–89	20%	80%
90 and over	10%	90%

The usufruct with a fixed duration is valued at 2/10 of the value of the full ownership per 10-year period, with the limitation that the value of the fixed duration usufruct should not exceed the value of the life usufruct as described above.

When the donor dies, the usufruct effectively ceases to exist and the bare ownership matures into full ownership. Neither gift tax nor inheritance or death duty will apply at that time.

The above table is also applicable for inheritance tax and death duty purposes.

7. Trusts, foundations and private purpose funds

Under the law of 27 July 2003, Luxembourg ratified The Hague Convention of 1 July 1985 relating to the recognition of foreign trusts. It also revised the Luxembourg legislation regarding fiduciary agreements in order to facilitate the recognition of a Luxembourg fiduciary by other contracting states.

The same law also introduced different indirect tax measures in relation to trusts and fiduciary agreements.

Trust and fiduciary agreements are not subject to compulsory registration formalities, even if they are used, by public deed, before the courts or before any other Luxembourg authority. This rule does not apply if the trust or fiduciary agreement relates to immovable property located in Luxembourg, planes, ships or boats for navigation on internal waterways registered in Luxembourg, or to any rights over such an asset that must also be transcribed, recorded or registered.

Voluntary registration is, however, possible.

Fiduciary contracts and trust deeds that relate to assets or rights that the fiduciary or the trustee must re-transfer within 30 years are subject to a fixed registration duty of EUR12 when they are registered. The same applies to deeds effecting the re-transfer of the assets or rights to the fiduciant or to the settlor within that period.

In cases where the assets or the rights are definitively transferred, during or at the end of the fiduciary contract or trust agreement, to the fiduciary or the trustee and where the fiduciary contract or the trust agreement had been registered at the fixed registration duty of EUR12, the assets or rights transferred must be registered at the rates applicable under common law. Accordingly, the higher rates for sales are applicable, except for some specific transactions relating to the transfer of assets under pledge (which are only subject to the fixed registration duty). For real estate located in Luxembourg, property transfer tax amounts to 7% (10% if the real estate is located within the municipality of Luxembourg City or Mamer). For movable property, the registration duty may vary from 1.2% to 6% upon voluntary registration. However, the transfer of movable property, other than by way of a gift or an inheritance, is not subject to compulsory registration. No percentage registration duty applies on the transfer of shares even if the transfer is registered, except for the transfer of units in partnerships owning a real estate located in Luxembourg.

In cases of a gratuitous transfer of an asset or a right owed by a fiduciary or a trustee to a third-party beneficiary, gift tax is due depending on the degree of relationship between the beneficiary and the fiduciant or the settlor.

The same applies for the calculation of inheritance tax and death duties.

8. Grants

This does not apply.

9. Life insurance

In cases of a contract made for the benefit or in favor of a third party (e.g., a life insurance contract), the cash and/or other assets that this third party is expected to receive at the moment of the decease (i.e., execution of the contract) are considered as collected as legacy by the beneficiary and thus included in the inheritance tax basis, except if the said stipulation was already subject to registration duties applicable for gifts.

If the stipulation is made by a person for the benefit of his or her partner/spouse as provided in the paragraph above, the cash and/or other assets that are received by the beneficiary are considered as a legacy for their full amount.

10. Civil law on succession

10.1 Succession

Succession occurs upon the decedent's death. The date to be taken into consideration is the day of the death. Succession opens at the last residence of the deceased and irrespective of the nationality of the deceased.

However, Regulation (EU) No. 650/2012[1] has introduced certain rules that impact the Luxembourg civil law on succession. According to the general rule of the Regulation, the law applicable to succession as a whole is the law of the state in which the deceased had his or her habitual residence at the time of death. However, by way of exception, when it is clear from all the circumstances of the case that, at the time of death, the deceased was manifestly more closely connected with a state other than the state of his or her habitual residence, the law applicable to succession is the law of that other state. Furthermore, a person may choose as the law to govern his or her succession as a whole the law of the state whose nationality he or she possesses at the time of making the choice, or at the time of death. Therefore, Luxembourg can continue to generally apply the law of the deceased's domicile for movable assets and the law of *situs* for immovable property, since this is in line with the provisions of the Regulation. However, the decedent's will may now

[1] Regulation (EU) No. 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, applicable as from 17 August 2015.

designate another law – the law of the country of his or her citizenship – to govern his or her succession. Therefore, the application of Luxembourg civil law to the liquidation of the succession will depend on concrete circumstances, or on the choice of the law of the country of citizenship made expressly in a will. It should be noted that this only applies with regard to the aspects of civil law; the succession will always be, from a fiscal point of view, liquidated according to the Luxembourg rules on inheritance tax and death duty.[2]

If there is a will, the succession will be liquidated in accordance with the provisions of the will.

In the absence of a will, the succession will be regulated in accordance with the legal order, i.e., a system of succession per stirpes, which divides the possible intestate heirs into different orders depending on the relation to the deceased person, while the closest applicable order excludes the more distant orders.

1st order	Children and their descendants
2nd order	Surviving spouse
3rd order	Parents and their descendants
4th order	Grandparents and ascendants
5th order	More distant relatives (e.g., uncles, aunts, cousins)
No heirs	State

10.2 Forced heirship rules

Luxembourg civil law protects the rights of the descendants of a deceased. In this respect, children are entitled to statutory shares of the estate. However, third parties may benefit from the gifts or legacies (i.e., the disposable portion), provided that the statutory compulsory shares are not denuded.

Family situation as of the death	Statutory share	Disposable portion
1 child	Half for the child	Half
2 children	Two-thirds for the two children	One-third
3 children or more	Three-quarters for the children	A quarter

If the spouses have joint children or descendants, they are allowed to make mutual donations (either through a marriage contract or during the marriage) of:

- The full ownership of the disposable portion and the usufruct of the balance of the estate
- The usufruct of the total estate

Number of children	Statutory share	Surviving spouse
1	Half in bare ownership	Half in full ownership and half in usufruct
2	Two-thirds in bare ownership	One-third in full ownership and two-thirds in usufruct
3 or more	Three-quarters in bare ownership	One-quarter in full ownership and three-quarters in usufruct

[2] Circular No. 776 of 6 August 2015 of the *Administration de l'enregistrement. des domaines et de la TVA*.

10.3 Surviving spouse

When the deceased leaves only a surviving spouse, he or she is in principle entitled to the full ownership of the estate. However, he or she can be disinherited by a testamentary document since he or she is not a protected heir.

If the decedent leaves both a spouse and children, the surviving spouse has the choice of opting either for the usufruct of the family home with furniture or a part of the estate in full ownership, depending on the disposable portion in accordance with the forced heirship rules.

10.4 Matrimonial regimes and civil partnerships

The matrimonial regime chosen by the spouse has an influence on the assets to be included in the estate. Three main marital regimes are available in Luxembourg:

- The *communauté réduite aux acquêts* (the default regime laid down by law) under which assets are owned in common, except assets acquired before the marriage and assets acquired during the marriage through inheritance and gift
- The universal co-ownership rule under which all assets are owned in common by both spouses, regardless of whether the assets were acquired before or during the marriage
- The separate ownership regime under which each spouse retains sole title to assets and wealth he or she acquired before and during the marriage

If the spouses opt for the universal co-ownership rule with attribution to the survivor, the assets will automatically pass to the surviving spouse at the death of one of them. In this case, the succession is nil and thus not subject to inheritance tax.

In the absence of a matrimonial agreement, each partner remains the owner of the assets over which he or she can provide proof of ownership. In the absence of proof, the asset is deemed to be owned in common.

Partners may also set up a patrimonial agreement without any formal requirements; the agreement only needs to be signed and dated. The partners may freely determine the property consequences of their partnership, as long as the mandatory rules applicable to each partnership are respected. The patrimonial agreement may, for example, include an inventory of the assets owned individually by each partner and those owned in common.

It should be noted that a partner is not considered to be the heir of his or her deceased partner; a will is thus necessary for partners to inherit from each other.

10.5 Intestacy

A will is a legal document that regulates an individual's estate after death.

In this respect, Luxembourg law recognizes the following three main types of wills: public will, mystic will (i.e., a will that is completed, signed and sealed in secret) and handwritten will.

If there is no valid will at death, then the deceased's estate passes under predetermined rules (see Section 10.1).

10.6 Probate

After the death, the heirs and legatees may contact the notary in charge of the formalities of the estate left by the deceased (or their own lawyer) in order to deposit the will in their possession or, if they are not aware of the existence of a will, so the notary may consult the Central Register of Wills to find out whether a will was filed with another notary.

However, for handwritten and mystic wills, the heirs or legatees will be required to submit the will either directly or via a notary to the President of the District Court, who will prepare minutes of the presentation, the opening (for a mystic will, the opening should be done in the presence of the notary and witnesses who signed the subscription deed for the mystic will) and the general condition of the will. After this procedure, the President of the District Court orders the deposit of the will for execution in the hands of a notary designated by him.

This formality is not required for a public will where the notary may immediately liquidate the estate left by the deceased.

11. Estate tax treaties

11.1 Unilateral rules

Luxembourg applies unilateral measures to avoid double taxation as explained above.

11.2 Double-taxation treaties

Luxembourg has not yet concluded any double-taxation treaties for inheritance or for gift tax purposes with other countries.

Malta

EY contact:

Office
Ernst & Young Limited
Regional Business Centre
Achille Ferris Street
Msida, MSD 1751
Malta

Robert Attard
robert.attard@mt.ey.com
+356 2134 2134

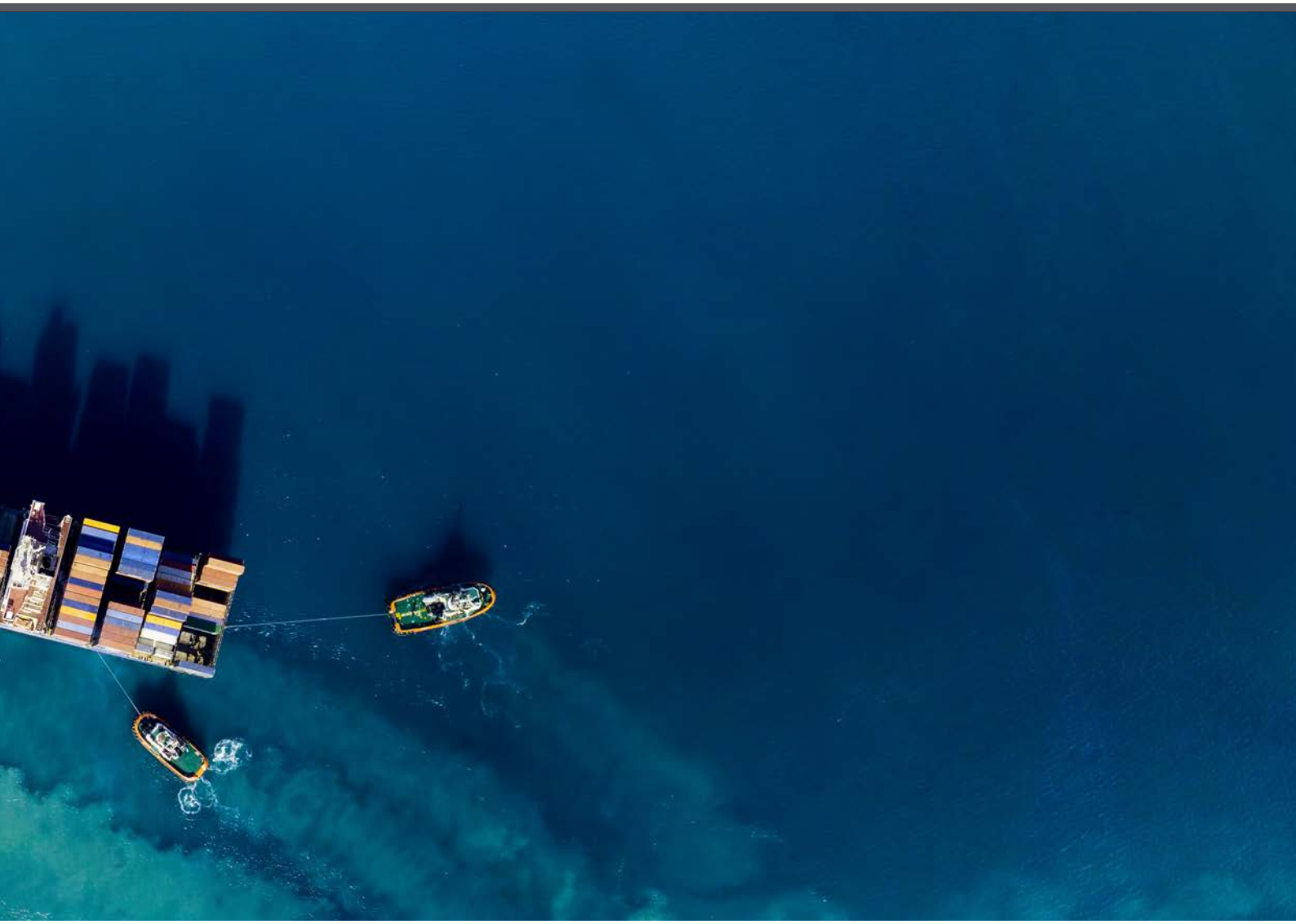
1. Types of tax

Currently, Maltese legislation does not contemplate any gift taxes or specific estate and inheritance taxes per se.

Nevertheless, income tax on capital gains is levied on certain donations, and duty on documents and transfers is due upon the inheritance of certain assets, including real estate, marketable securities and interests in a partnership.

1.1 Inheritance tax

There is no inheritance tax in Malta.



1.2 Gift tax

There is no gift tax in Malta. Nevertheless, from an income tax perspective, the definition of a "transfer" in the Income Tax Act, Cap. 123 of the Laws of Malta (ITA) encompasses donations. Therefore, donations of chargeable assets, including immovable property, business, intellectual property, securities in companies, interest in a partnership and a beneficial interest in a trust fall within the purview of "income tax on capital gains." In case of immovable property situated in Malta or any right thereon, the property transfer tax (PTT) would apply instead.

1.3 Real estate transfer tax

Upon the transfer of immovable property, the transferor will either be subject to income tax on capital gains or PTT; each form of tax is calculated differently. Income tax on capital gains and PTT are separate and distinct; however, both are regulated by the ITA. For either purposes, however, the term "transfer" as provided for in the ITA excludes transfers causa mortis, to the effect that transfers of immovable property by means of inheritance fall outside the scope of both income tax on capital gains and PTT.

1.4 Endowment tax

There is no endowment tax in Malta.

1.5 Transfer duty

Duty on documents and transfers in Malta is a transaction-based tax that is due upon the transfer – including a transfer causa mortis and a donation – of dutiable property where the transaction document is either executed or used in Malta. Dutiable property includes immovable property situated in Malta or any real rights thereon, marketable securities and interests in a partnership.

Causa mortis

Duty on documents and transfers (at the rates identified in "1.5 Transfer Duty" above) is due upon the inheritance of real estate, marketable securities and interest in a partnership.

1.6 Net wealth tax

There are no net wealth or net worth taxes in Malta.

2. Who is liable?

2.1 Income tax on capital gains/PTT

In case of a donation that falls within the purview of income tax on capital gains/PTT, the donor would be liable to settle the income tax on capital gains/PTT due on the transfer.

2.2 Duty

In theory, the liability to duty is dependent on whether the transfer is a transfer inter vivos or a transfer causa mortis and whether the transfer is affected by a public deed. The relevant provisions may be summarized as follows:

- In the case of a transfer causa mortis of an asset that does not involve a public deed, the liability to pay the duty would fall on the transferee.
- In the case of a transfer *inter vivos* – such as a donation – of an asset that does not involve a public deed, the transferor and transferee would be jointly and severally liable to pay duty due.
- In the case of a transfer that involves a public deed, the notary publishing the relevant deed would be jointly and severally liable with the transferee and, where applicable, the transferor to pay the duty due.

In practice, however, the duty is generally settled by the transferee.

3. Rates

3.1 Income tax on capital gains

Any deemed capital gains derived from a taxable donation would be amalgamated with the donor's other income and brought to charge at progressive tax rates from 0% to 35%. The capital gain is equal to the transfer value, which in the case of a donation is likely to be equal to the market value of the shares transferred through the application of a prescribed formula, less the cost of acquisition and a deduction for inflation in cases where the book value of immovable property is replaced by its market value.

The applicable tax brackets depend on whether the individual is a resident or nonresident for Maltese income tax purposes. In the case of resident individuals, the tax rates are also affected by whether the taxpayer is taxable at the single, married or parent rates, with different tax-free thresholds for each category.

3.2 PTT

The default rate of PTT is 8%, and it is levied on the transfer value of the immovable property, that is the higher of the consideration, where applicable, and the market value of the immovable property being transferred. Nevertheless, the relevant rules contemplate other rates, including:

- 12%, levied on the excess of the transfer value over the acquisition value, when the immovable property being transferred was originally inherited by the transferor after 24 November 1992 or donated to the transferor more than five years beforehand
- 7%, levied on the transfer value, where the immovable property being transferred was inherited by the transferor before 25 November 1992 or inherited after 24 November 1992 and the property is being transferred by means of a judicial sale
- 5%, levied on the transfer value, where the immovable property being transferred falls under the definition of restored property in accordance with Malta Environment and Planning Authority (MEPA) or situated in an urban conservation area; this rate also applies to transfers of property originally acquired by the transferor before 1 January 2004
- 5%, levied on the transfer value, where the immovable property being transferred does not form part of a project and is transferred within five years from the date of acquisition or a restored immovable property that is situated in an urban conservation area or scheduled by MEPA
- 2%, levied on the transfer value, where the immovable property being transferred is the transferor's sole ordinary residence, the transfer is done within three years after the date of the acquisition and the transferor does not own any other residentially property at the time of the transfer

With effect from 1 January 2020, a final tax of 15% applies on all gains or profits derived on the first EUR100,000 of a consideration received for the transfer of a promise of sale agreements.

3.3 Duty

Duty on documents and transfers amounting to 5% on the transfer value of immovable property in Malta or any real right over an immovable property. The transfer value is the value of the consideration for the transfer of the immovable property, where applicable, or on the market value of the immovable property – generally determined through an architect's valuation, whichever is the higher.

Duty is also levied upon the acquisition of marketable securities and interests in certain partnerships. Generally, a 2% duty is applied on the transfer value of the marketable securities and the interest in the partnership being transferred. The transfer value is the value of the consideration, where applicable, and the real value of the marketable securities or the interest in the partnership being transferred, in either case as determined through a prescribed formula, whichever is the higher.

The rate is increased to 5% in case where the company or partnership in which the marketable securities or interests are held derives, directly or indirectly, 75% or more of its value from immovable property situated in Malta or any real rights thereon. Several exemptions for companies having most of their business interests situated outside of Malta are envisaged.

4. Exemptions and reliefs

4.1 Income tax on capital gains/PTT

No income tax on capital gains/PTT is levied on the donation of chargeable assets from an individual to that person's spouse, descendants and ascendants in the direct line and their relative spouses or, in the absence of descendants, to the individual's brothers and sisters and their descendants.

4.2 Duty

The Duty on Documents and Transfers Act (DDTA) provides for several exemptions and rebates when calculating duty on donations and transfers causa mortis, including the below. No duty shall be charged on the transfer of immovable property:

- Between persons who are, or were formerly, married to each other, on either the assignment of the immovable property between them consequent to a consensual or judicial separation or to a divorce or the dissolution of the community of acquests existing between them
- Between persons who are married to each other on any transfer inter vivos of the ordinary residence or part thereof of any or both spouses
- On the death of one spouse, on any partition of any property held in common between spouses the surviving spouse and the heirs of the deceased spouse
- Between cohabitants whose cohabitation is enrolled by means of a public deed under the Cohabitation Act, 2020, when such assets are assigned between them consequent to the dissolution of the cohabitation
- Between cohabitants whose cohabitation is enrolled by means of a public deed under the Cohabitation Act, 2020, on the dissolution of the community between said cohabitants
- Between cohabitants whose cohabitation is enrolled by means of the public deed under the Cohabitation Act, 2020, whether the community of assets exists between them or otherwise, on any transfer inter vivos of the cohabitation home or part thereof, of any or both cohabitants

- On the death of one of the cohabitants, whose cohabitation is enrolled by means of a public deed under the Cohabitation Act, 2020, on any partition of any property held in common between the cohabitants, whether it is the community property or otherwise, between the surviving cohabitant and the heirs of the deceased cohabitant
- On a transfer of an undivided share of a dwelling house, from the heirs of the deceased co-owner to the other co-owner, where the dwelling house was, immediately before the transfer, co-owned by two individuals
- On the first EUR250,000 of the value of the property transferred via a gratuitous title by a person to his or her descendants in the direct line who acquire immovable property for the purpose of establishing therein, or constructing thereon, their sole, ordinary residence; a reduced rate of 3.5% duty applies on the remaining value thereof, if this is the first transfer by such a person to such a descendant and properly declared
- On the first EUR35,000 where a person acquires by way of an inheritance a dwelling house that was the ordinary resident of the late person; moreover, where the dwelling house so acquired was also occupied by the transferee causa mortis at the time of the transfer, the duty payable on the part of the transfer value between EUR35,000 and EUR200,000 shall be charged at 3.5%; if the dwelling house was occupied by the transferee causa mortis but was not the ordinary residence of the late person, the rate of 3.5% shall apply for the first EUR200,000
- Upon a transfer causa mortis of a dwelling house, which was, at the time of the transfer and during the previous years, the ordinary residence of the later person, and where the transferee causa mortis is the transferor's descendants in the direct line
- No duty shall be charged on the transfer of marketable securities:
  - Between persons who are, or were formerly, married to each other, on either the assignment of the immovable property between them consequent to a consensual or judicial separation or to a divorce or the dissolution of the community of acquests existing between them
  - Between persons who are married to each other on any transfer inter vivos of the ordinary residence or part thereof of any or both spouses
  - That are listed on the Maltese Stock Exchange
  - In a company that has applied for and obtained a blanket duty exemption in terms of article 47 DDTA, such as companies which, among other conditions, are owned more than 50% by non-Maltese residents and carry on or intend to carry on more than 90% of their business outside of Malta
  - On the first EUR150,000 if the marketable securities are held in a family business that carries on a business if, among other, the family business does not own any immovable property other than immovable property consisting of a commercial tenement, which has been used for a period of three years

Duty will be levied at the reduced rate of 1.5% upon the transfer by means of a gratuitous title from the individual to that person's spouse, descendants and ascendants in the direct line and their relative spouses, or in the absence of descendants to the individual's brothers and sisters and their descendants of:

- Marketable securities issued by a company
- A commercial tenement that had been used in a family business for a period of at least three years preceding the transfer

Furthermore, no income tax and no duty on documents and transfers shall be payable on the first EUR750,000 of the transfer value of any transfer of (1) vacant building, which except for other conditions, its construction was completed at least 20 years before the date of the transfer, has been vacant on the date of transfer and has been vacant for a period of at least seven continuous years immediately preceding the transfer date or (2) property situated within an urban conservation area at the time of transfer, which is supported by a declaration confirming this and confirmed by a certificate issued by the planning authority established under the Development Planning Act. The transfer must be made on or after 12 October 2021 but not later than 31 December 2025. Where the transfer value exceeds EUR750,000, the income tax and the duty on documents and transfers on the excess shall be chargeable at the rates that apply in terms of the relevant provisions of the Income Tax Act and the Duty on Documents and Transfers Act.

5. Filing procedures

5.1 Income tax on capital gains/PTT

If the donation is subject to income tax, the transferor would be bound to remit to the Malta Tax and Customs Administration provisional tax of 7% of the transfer value within 15 days from the date of transfer. The provisional tax payment must also be accompanied by the submission of the prescribed paperwork. Moreover, the transferor would also be required to declare the deemed capital gain in his/her personal income tax return. The personal income tax return is submitted (together with the settlement tax) to the Maltese tax authorities on an annual basis by not later than 30 June of the year following the end of the calendar year. Any provisional tax paid would be credited against the tax due for the particular year, with any excess available as a refund.

In case of PTT, the notary publishing the deed shall be responsible for the collection and remittance of the PTT to the Commissioner for Tax and Customs, together with the submission of the prescribed paperwork.

5.2 Duty

In case of a donation, the transferee would be bound to submit certain paperwork with the Malta Tax and Customs Administration together with a check covering the duty payable within 15 working days from the date of transfer.

Conversely, the succession of immovable property must be made by means of a deed of declaration causa mortis published by a notary public and duly registered in the Public Registry of Malta. Each heir may go to a Notary Public and make a declaration causa mortis for that person's share only. The heirs are not obliged to make the declaration causa mortis together. The declaration Causa Mortis shall contain a statement by the heirs stating the true value of each property or share thereof that is being transferred to them. In turn, the notary would be bound to submit the relevant paperwork together with a check covering the relevant duty payable, where applicable, within 15 working days from the receipt of the deed containing the relevant declaration. Moreover, to benefit from rebates on stamp duty, a deed of causa mortis must be concluded within six months from the date of death. Failure to conclude the causa mortis deed within one year from the date of death will result in the incurring of interest on the amount of tax due at the rate of 8% per annum.

The exemptions require the notary declaring on the relative deed that the property in question came to the heirs of the deceased person through a transfer causa mortis and that a complete declaration has been duly made in accordance with Article 33 of the DDTA.

As for transfer causa mortis of marketable securities and interests in a partnership, the transferee causa mortis would be required to furnish the Malta Tax and Customs Administration with the relevant paperwork accompanied by a check covering the duty payable within 15 working days from the transfer. Moreover, the transferee causa mortis would also be required to give a notice to the Commissioner for Tax and Customs in case where the shares or interests being transferred causa mortis are in a company or a partnership either:

- Registered in Malta
  Or
- Registered outside of Malta but having, directly or indirectly, more than 50% of its business interests situated in Malta and only if such a transferee causa mortis is an individual who is ordinarily resident and domiciled in Malta

6. Assessments and valuations

6.1 Assessments

All documents submitted with the Commissioner for Tax and Customs in relation to donations and transfers causa mortis is subject to the usual vetting by the department's assessors and an internal departmental board to establish the correctness of the workings and the values attributed to the immovable property being transferred.

6.2 Valuation

A transferee inter vivos or causa mortis of immovable property situated in Malta or any real rights thereon may produce to the notary a professional architect's valuation for the purpose of determining the value of the immovable property in question. The relevant report shall be annexed to the relevant deed. The Commissioner retains the right not to accept a valuation made by an architect, but if the transfer value declared in the relevant deed is not less than 85% of the value provided by the architect, the duty payable shall be computed with reference to the value declared in the relevant deed.

Moreover, if the company whose shares are being transferred owns immovable property situated in Malta, then for the purposes of determining the taxable base, where applicable, and dutiable base for the purposes of income tax on capital gains and duty respectively, the book value of such immovable property must be replaced by the market value thereof as determined by an architect's valuation. Moreover, in certain cases, the transferor and/or the transferee may also be allowed to determine the value of the shares being transferred based on a share valuation prepared by an independent expert. Such a share valuation shall include a detailed description of the methods of valuation that have been used in determining the market value of the shares and the endorsement thereof is at the Commissioner's discretion.

7. Trusts and foundations

Maltese law caters both for trusts and foundations.

As defined by law, a trust exists where a person ("a trustee") holds, as owner or has vested in his or her property under an obligation to deal with that property for the benefit of persons ("the beneficiaries"), whether or not yet ascertained or in existence, which is not for the benefit only of the trustee, or for a charitable purpose, or for both such benefit and purpose aforesaid. The trust property shall constitute a separate fund owned by the trustee, distinct and separate from the personal property of the trustee and from other property held by the trustee under any other trust. Trusts create fiduciary obligations upon the trustee in favor of the beneficiary of the trusts.

On the other hand, a foundation is an organization consisting of a universality of things constituted in writing, including by means of a will, by a founder or founders whereby assets are destined either:

- For the fulfillment of a specified purpose
- For the benefit of a named person or class of persons, which are entrusted to the administration of a designated person or persons.

The patrimony, namely assets and liabilities, of the foundation is distinct from that of its founder, administrators or any beneficiaries, with fiduciary obligations being binding upon the foundation and all persons administering it toward any beneficiaries for the fulfilment of the stated purposes of the foundation.

Taxation of trusts

The tax treatment of trusts is primarily dependent on whether any of the trustees is tax resident in Malta or not. Trusts, where at least one of the trustees is a person in possession of a valid license issued in terms of the Banking Act or the Financial Institutions Act, will be deemed to be tax resident in Malta, and income tax shall be payable on any income that is attributable to the trust other than those allocated to beneficiaries. Nevertheless, additional considerations are envisaged.

Indeed, where the trust is not engaged in a trading activity and its income solely comprises royalties, dividends, capital gains, interests, rents or any other income from investments, the trustee may elect to have the trust treated as a company that is ordinarily resident and domiciled in Malta. This would mean that, unless an exemption is available, the trust would be subject to income tax on all said income at the headline rate of 35%. Moreover, any distributions of such taxed profits to the beneficiaries of the trust would be treated as a dividend distribution to shareholders, to the effect that the beneficiaries would be entitled to benefit from the refundable tax credit system if several conditions are satisfied. Distributions of dividends are also generally not subject to further tax, except where the dividends are distributed out of untaxed profits and the shareholder is considered to be a "recipient."

If the election above is not submitted by the trustee, the tax treatment of the trust would be dependent on the nature and source of income earned by the trust and the tax status of its beneficiaries. The trust would be treated as transparent for tax purposes in case where:

- The income attributable to the trust consists of either income arising outside of Malta or income in respect of which the nonresidents exemption may be applied and all the beneficiaries are persons who are either not ordinarily resident in Malta or not domiciled in Malta or persons who are totally exempt from income tax.
  Or
- The income attributable to the trusts consists of income arising outside of Malta, income in respect of which the nonresidents exemption may be applied, or dividends distributed by a Maltese company and all the beneficiaries of such trust are persons not resident in Malta.

Where a trust is treated as a tax transparent entity, all the income attributable to the trust would be deemed to be income derived directly by such beneficiaries and brought to charge in their hands in line with the rates applicable to them.

Where none of the above applies, the trust would be deemed to be a person ordinarily resident and domiciled in Malta and the income attributable to the trust other than those allocated to beneficiaries should be brought to charge at the rate of 35%.

Conversely, where not one of the trust's trustees is tax resident in Malta, none of the income attributable to the trust would be subject to income tax in Malta. Nevertheless, where the settlor of a trust is a person resident in Malta, upon the settlement of property into such trust, said settlor shall inform the Commissioner of the property so settled, together with a copy, where applicable, of the relevant trust instrument or of any other document evidencing the existence of such trust. This information shall be submitted to the Commissioner by no later than 30 days from the date of the relevant settlement.

As for income tax treatment applicable to income allocated to beneficiaries, which income shall be deemed to have been derived by the beneficiaries at the time it vests, or the beneficiary becomes entitled to it, or income distributed to the beneficiaries out of income that was not brought to charge in Malta in the hands of a nontransparent Maltese tax resident trust, such income shall, where applicable, be aggregated with the other income of the said beneficiaries and brought to charge accordingly in line with the tax status of said beneficiaries.

Taxation of foundations

The general rule is that a Malta private foundation is taxed in the same manner as a company that is ordinarily resident and domiciled in Malta. Nevertheless, the administrators of a foundation may irrevocably elect for the foundation to be taxed under the provisions applicable to trusts. If this election is made, then the provisions of the Income Tax Act and any regulations thereunder concerning trusts as discussed above will be applicable to the founder, the foundation and the beneficiaries.

8. Grants

There are no specific rules in Malta, with respect to grants.

9. Life insurance

A policy of life insurance is subject to duty in Malta if the policyholder is tax resident in Malta. The duty payable is primarily dependent on whether the policy is renewable every year or not. Indeed, where the policy of life insurance is not renewable every year, then duty should be levied at the rate of 0.1% of the sum assured that is the fixed guaranteed amount payable by the insurer under the policy on the death of the life assured. Otherwise, that is in the cases where the policy of life insurance is renewable every year, duty should be levied at the rate of 10% of the yearly premium.

10. Civil law on succession

The Civil Code is the main law providing for inheritance in Malta, where the Maltese Courts have general jurisdiction to decide upon disputes related to successions, and in certain specific events where the heirs do not agree upon the manner with which the partition of inheritance would take place, this would be referred to the Partition of Inheritance Tribunal, which has special jurisdiction.

The disposal of property after someone's death can be performed in three ways:
- By means of an ordinary will
- By depositing a secret will in Court (by the notary or testator)
  Or
- By distributing property according to law ("intestate succession") if the aforesaid are missing

Any property not covered by the will is disposed of according to the law.

According to Maltese Law, a person is eligible to write his or her will if the testator is at least 18 years old, can attest mental sanity and has not been incapacitated by any court order. Even if the testator has not included his or her family in the will, Maltese Law states that the close relatives of the deceased are entitled to a portion of the inheritance. Movable and immovable property can be sold if all heirs agree to, dividing the proceeds among them according to the proportions indicated in the will.

10.1 Forced heirship

Under Maltese law, the reserved portion due to all children born in/out of wedlock or adopted shall be one-third of the estate if such children are not more than four in number or half of the value if they are more than five in number. The reserved portion is divided in equal shares among the children who participate in it, and if there is only one child, that individual shall receive the whole of the aforesaid one-third part.

Where the deceased has left children/descendants and a spouse, the succession devolves as to one half upon the children/descendants and one-half upon the surviving spouse. If the deceased leaves no surviving spouse, the succession devolves on the children/descendants and vice versa if the deceased leaves no children/deceased but a surviving spouse.

The portion of the children (or other descendants) who have been disinherited by the testator shall devolve in favor of other children (or descendants) taking the reserved portion. The reserved portion is calculated on the value of the whole estate, after deducting the debts due by the estate and funeral expenses.

Where a deceased spouse is survived by children or other descendants, the surviving spouse shall be entitled to one-fourth of the value of the estate in full ownership. However, if the deceased spouse is not survived by children or any other descendants, the surviving spouse is entitled to one-third of the value of the estate in full ownership. The right of habitation shall cease on the remarriage of the surviving spouse.

10.2 Matrimonial regimes and civil partnerships

The Civil Code states that the surviving spouse shall be entitled to the right of habitation over the property occupied as the principal residence by the said surviving spouse at the time of decease of the predeceased spouse, where the same property is held in full ownership or emphyteusis by the deceased spouse (either alone or jointly with the surviving spouse).

The extent of the tenement subject to the right of habitation shall not be limited on the grounds that, after the death of the predeceased spouse, the surviving spouse requires a lesser part of the property.

10.3 Intestacy

When there is no valid will, or where the testator has not disposed of the whole of that person's estate, or where the heirs-institute are unwilling or unable to accept the inheritance, or where the right of accretion among the co-heirs does not arise, intestate succession takes place, wholly or in part. By law, inheritance passes down to descendants, ascendants, the wife or husband of the deceased person, collateral relatives (cousins, aunts, etc.) and to the government of Malta.

In this case, succession functions in accordance with the proximity of the relationship, determined by the number of generations. In the events that the deceased is not survived by any persons entitled to succeed, the inheritance passes down to the government of Malta.

If a person had used fraud or violent tactics to prevent the deceased from making a will, then that person is deemed unworthy of receiving such inheritance from the process of an intestate succession.

10.4 Hereditary funds

There are no hereditary funds in Malta.

11. Estate tax treaties

There are no estate tax treaties between Malta and other countries.

Mexico

EY contacts:

Mexico City

EYS Equipo y Soluciones, S.C.
Av. Ejército Nacional
No. 843-B
Col. Granada C.P.
Alcaldía Miguel Hidalgo
Mexico City
Mexico

María Guadalupe Ávila
maria.avila@mx.ey.com
+52 55 5283 1300, ext. 7326

Rodrigo Lechuga
rodrigo.lechuga@mx.ey.com
+52 55 5283 1300, ext. 7448

Abril Rodríguez Esparza
abril.rodriguez@mx.ey.com
+52 55 5283 1300, ext.7108

Monterrey and Querétaro

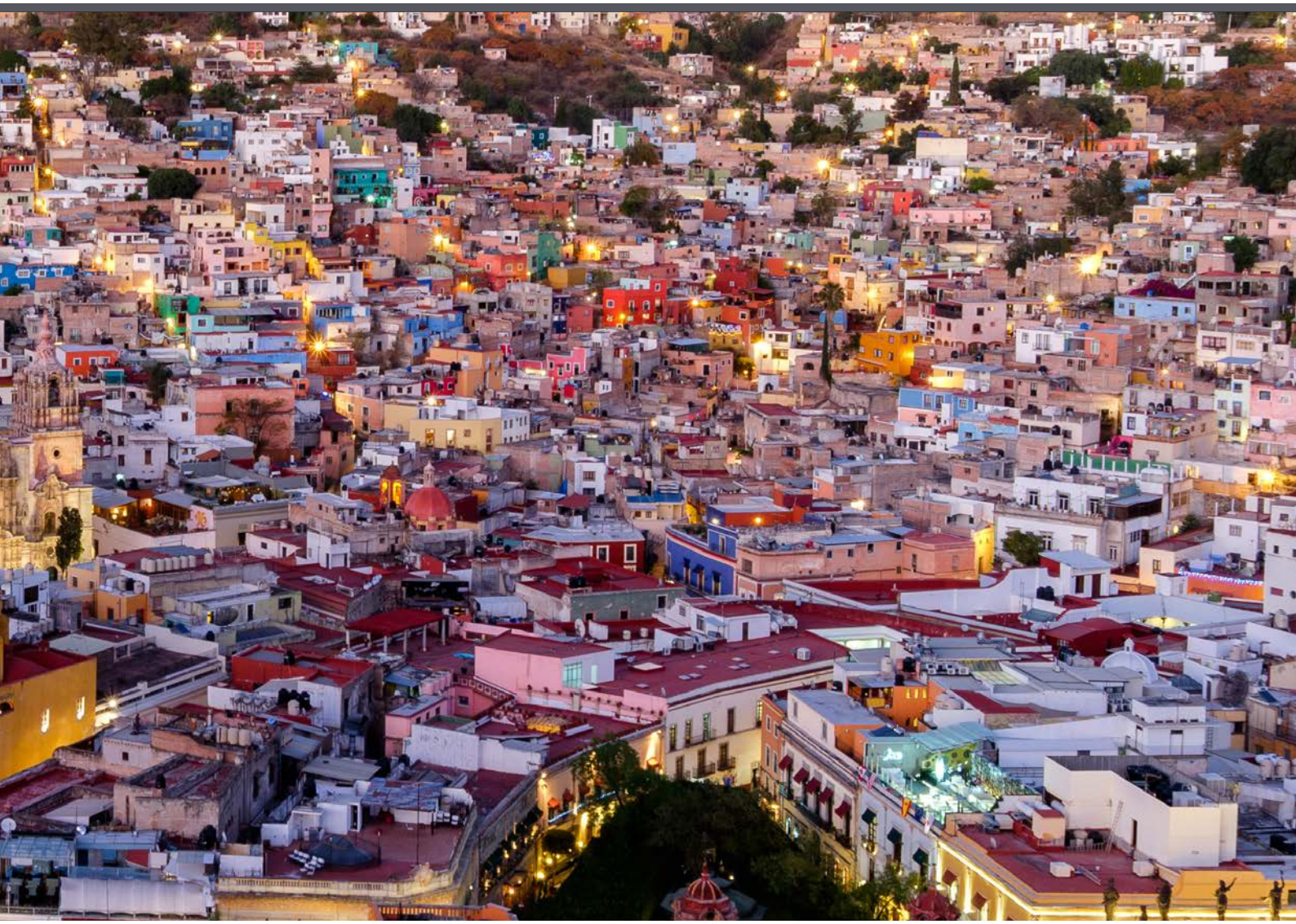
EYS Equipo y Soluciones, S.C.
Autopista México-Querétaro
KM. 206, "Edificio
Nouvalia" No. 5, Piso 8, Col.
Fraccionamiento
Monte Miranda, C.P. 76246,
El Marqués, Querétaro,
Mexico

Alejandro Banderas
alejandro.banderas@mx.ey.
com
+52 442 216 6429, ext. 2679

1. Types of tax

1.1 Inheritance

Mexico's tax legislation does not establish an inheritance tax. Under Mexican law, succession is the legal means through which a person substitutes another on his or her rights and obligations due to the latter's absence. For Mexican tax purposes, a process must also be observed that goes in hand with the civil process, i.e., at the beginning of the testamentary succession to distribute the assets or wealth for which a notice must be filed with the Mexican tax authority (SAT).



However, if a resident abroad receives by inheritance shares issued by legal entities residents in Mexico or real estate located in Mexico, a tax rate of 25% on the appraisal value of the goods will be applicable. According to the Civil Code of the Federal District (CCDF), a succession starts at the time of the decedent's death, or when the death is presumed in the case of absences or disappearances. A testamentary succession or intestate is formed when an executor is named.

Succession is integrated in the four stages shown in the table below.

Stages	Activities
Succession	The preparation of the testament (will) must be made by a notary public. Only the heirs who are listed in the will have the right to an inheritance. Appointment and/or removal of executor and inspector, and recognition of hereditary rights, must be made. The validity of the will, capacity to inherit and preference of rights must be resolved.
Inventory	Inventory of the estate's assets and debts must be prepared by the executor. If there is a trial regarding an individual's claim that he or she should be included in the will, the inventory must be updated to reflect the rulings and inclusion of new heirs (if necessary).
Administration	While the succession process is being carried out and the heirs agree on the manner in which the assets will be distributed, an administrator must be named. The administrator must ensure that all income produced by investments, rents and shares is properly accounted for and that the taxes are paid.
Distribution	A provisional distribution plan is prepared. If there are new heirs appointed as a result of a trial, a new inventory must be prepared and the new heirs included in the distribution plan. The assets are distributed. Resolutions must be made regarding the application of the goods that form the inheritance.

The executor is the representative of the succession against third parties, and he or she will have the following obligations:
- Submitting the will
- Securing the assets of the inheritance
- Conducting an inventory
- Managing the assets and surrendering of the accounts
- Paying the mortuary, hereditary and testamentary debts
- Dividing and awarding inheritance between the heirs and legatees
- Judging and defending the validity of the inheritance testament
- Representing the succession in all judgments promoting themselves in their name or any promotions against them

The executor or the legal representative of an estate will pay income tax each year on behalf of the heirs or legatees. In doing so, the representative must consider the income in a joint manner, until the settlement of the succession is deemed to be concluded. Such payments will be considered definitive, unless the heirs or legatees elect to include, in their gross income, the income corresponding to them, in which case they can credit their pro rata share of taxes paid by the succession.

1.2 Gift or donation

Donation is defined as an agreement under which a person (called donor) transfers to another (called donee), all or part of his or her current assets; this implies that it cannot include future assets. A donation is valid in the moment when the donee accepts it and makes the acceptance known to the donor. Certain formalities must be met for a donation to be valid, such as being documented in a public deed before a Notary Public when the goods transferred exceed MXN5,000.

The donations that include the donor's entire property will be null if the donor does not reserve in property or in usufruct ("*usufructo*" in Spanish) the minimum assets necessary to live.

Donations can only take place between living persons and cannot be revoked except in cases declared by law.

In addition, the MFCC establishes four types of donations:
1. Pure donation: is granted in absolute terms
2. Conditional donation: depends on the occurrence of an uncertain event
3. Onerous donation: imposes some encumbrances on the donee
4. Remunerative donation: is made in gratitude for services the donor receives but for which the donor is not obliged to pay

Under the Mexican Income Tax Law (MITL), donations are tax-exempt in the following cases:
- Between spouses or received by descendants from their lineal ascendants, whatever the amount of the donation
- Those received by ascendants from their direct descendants, provided that the assets received are not transferred or donated by the ascendant to another lineal descendant
- Other donations, provided that the total value of the donations received in a calendar year is no more than three times the annual general minimum wage in effect in the taxpayer's geographic area (MXN123,820.56 in 2025)[1]

Income tax will be paid on the excess amount, if any.

The MITL states that Mexican resident individuals must report in their annual tax return loans, donations and prizes that, when valued separately or jointly, exceed MXN600,000. Loans and donations not declared or reported to the tax authorities will be considered as taxable income. Therefore, tax residents in Mexico must report the amount of donation as tax-exempt income. If this is not declared and the authorities detect the omission, the taxpayer loses the exemption.

1.3 Real estate transfer tax – ISAI (tax on acquisition of real estate property)

The tax is calculated by applying progressive tariffs to the total value of the building, as shown in the table below.

Rank	Lower limit (MXN)	Upper limit (MXN)	Fixed amount (MXN)	Index factor to be applied on the excess above the lower limit
A	0.12	123,988.81	314.97	0.01392
B	123,988.82	198,382.03	2,040.90	0.02967
C	198,382.04	297,572.76	4,248.16	0.03876
D	297,572.77	595,145.67	8092.80	0.04522
E	595,145.68	1,487,864.15	21,549.06	0.05023
F	1,487,864.16	2,975,728.34	66,390.32	0.05487
G	2,975,728.35	5,732,476.11	148,029.44	0.05952

[1] From 2018, the Unidad de Medida y Actualización (UMA) replaced the use of the minimum wage for this purpose. The UMA's annual value for 2025 is set at MXN41,273.52.

Rank	Lower limit (MXN)	Upper limit (MXN)	Fixed amount (MXN)	Index factor to be applied on the excess above the lower limit
H	5,732,476.12	14,928,323.92	312,111.08	0.06183
I	14,928,323.93	27,529,938.63	880,690.36	0.06251
J	27,529,938.64	55,059,877.21	1,668,417.30	0.06300
K	55,059,877.22	And above	3,402,803.44	0.08679

Individuals and companies must pay a real estate transfer tax (ISAI) on the acquisition of real estate property (this includes any type of real estate, either land or buildings, as well as the rights related to them) in Mexico City or any other states. Acquisition means all acts by which the property is transmitted, including the donation, inheritance or contribution to any sort of association or corporation, among others.

In cases of acquisitions due to death, a rate of 0% of ISAI will be applied if:
- The value from the real estate property at the date of the award does not exceed the sum equivalent to 27,185 times the minimum general wage in force in Mexico City (MXN3,075,710.9 for 2025); this is the amount of the exemption.
- The real estate property is acknowledged as property of the spouse or direct descendant no later than the next five years of the event (decease).

The payment of the tax must be made by the legatee/heirs, via an official form, within the 15 following days of: (i) the adjudication of the decedent's estate, (ii) the transfer of the hereditary rights or (iii) the sale of the assets held by the succession to a third party. In the latter two cases, the tax is triggered when the corresponding transfer or sale take place, regardless of the tax that must be paid by the acquirer of the rights or assets. In cases when the legatee or heir passes away before formalizing a contract to sell off his or her inheritance, the tax burden due from the legatee/heir, as well as the tax due because of the sale of the estate, rests on the third party who is purchasing or acquiring the estate.

For acquisitions that are made in public writing, the notaries that by legal disposition have notarial functions will calculate the tax under their responsibility. They will declare in the offices authorized within the 15 working days following the date the acquisition becomes formalized in public deed.

If the acquisitions are formalized through a private document, it is the purchaser's responsibility to calculate the tax and pay for it. A declaration will be filed for all acquisitions even when there is no tax to pay. The tax is calculated by applying progressive tariffs to the total value of the building, as shown in the table below.

Rank	Lower limit (MXN)	Upper limit (MXN)	Fixed amount (MXN)	Index factor to be applied on the excess above the lower limit
A	0.12	123,988.81	314.97	0.01392
B	123,988.82	198,382.03	2,040.90	0.02967
C	198,382.04	297,572.76	4,248.16	0.03876
D	297,572.77	595,145.67	8092.80	0.04522
E	595,145.68	1,487,864.15	21,549.06	0.05023
F	1,487,864.16	2,975,728.34	66,390.32	0.05487

Rank	Lower limit (MXN)	Upper limit (MXN)	Fixed amount (MXN)	Index factor to be applied on the excess above the lower limit
G	2,975,728.35	5,732,476.11	148,029.44	0.05952
H	5,732,476.12	14,928,323.92	312,111.08	0.06183
I	14,928,323.93	27,529,938.63	880,690.36	0.06251
J	27,529,938.64	55,059,877.21	1,668,417.30	0.06300
K	55,059,877.22	And above	3,402,803.44	0.08679

1.4 Endowment tax

There is no endowment tax in Mexico.

1.5 Transfer duty

There is no specific transfer duty in Mexico.

1.6 Net wealth tax

There is no net wealth tax in Mexico.

2. Who is liable?

According to the Civil Code, a testamentary or intestamentary succession occurs when the deceased has goods in his or her name for which an executor must be named. The executor will manage and divide the property of the deceased's estate and carry out the distribution of such property to the heirs. To facilitate the local procedures (such as payment of taxes and notifications to the local authorities), the executor should have a federal taxpayer identification number (Registro Federal de Contribuyentes, RFC) in Mexico and electronic signature (e.firma) in force.

The executor is responsible for filing the estate's tax returns until the assets are transferred to the beneficiaries.

2.1 Residency

In Mexico, residents are those who have established their home in Mexico. If individuals keep a home in another country, they are considered resident in Mexico if their center of vital interests is in Mexico. An individual's center of vital interests is in Mexico if at least one of the following circumstances is true:

- More than 50% of the individual's income in a calendar year is derived from Mexican sources
  Or
- The center of the individual's professional activities is in Mexico

Legal entities are residents of Mexico when the principal administration of the business is located in Mexico.

In a succession, the legal representative in Mexico must fulfil the fiscal obligations of the deceased according to his or her tax residence status.

3. Rates

Lifetime transfers

These transfers are considered tax-exempt income if the taxpayer declares them in the annual tax return.

Transfers on death

The legal representative of the succession shall make estimated tax payments and file the annual tax return, considering income and deductions.

Heirs and legatees may elect to include income corresponding to them from the estate in their gross income for the year. Likewise, they may credit the tax paid by the estate's legal representative in the same ratio of the estate's income that corresponds to them.

Once the estate is liquidated, the legal representative, the heirs or legatees that did not make the election referred to in the preceding paragraph may file an amended return for the five years preceding the year in which the liquidation took place, when applicable, in order to include in gross income the portion of the estate's income that corresponded to them on those years, and credit the portion of the tax paid each year by the estate's legal representative. Payment carried out in this form will be definitive, unless the heirs or legatees choose to accumulate the respective income that corresponds to them, in which case they will be able to credit the proportional part of the paid tax.

The income tax for fiscal year 2025 shall be calculated in accordance with the following schedule:

Tax rate schedule

Lower limit (MXN)	Upper limit (MXN)	Fixed amount (MXN)	Amount to be applied on the excess above the lower limit (%)
0.01	8,952.49	0	1.92
8,952.50	75,984.55	171.88	6.40
75,984.56	133,536.07	4,461.94	10.88
133,536.08	155,229.80	10,723.55	16.00
155,229.81	185,852.57	14,194.54	17.92
185,852.58	374,837.88	19,682.13	21.36
374,837.89	590,795.99	60,049.40	23.52
590,796.00	1,127,926.84	110,842.74	30.00
1,127,926.85	1,503,902.46	271,981.99	32.00
1,503,902.47	4,511,707.37	392,294.17	34.00
4,511,707.38	And above	1,414,947.85	35.00

Date for payment of tax

Lifetime transfers

Taxpayers should include transfers in their annual tax returns, which must be filed on 30 April.

Transfers on death

The representative should file a return, including income earned and received by the deceased from 1 January of the year of death up to the moment of his or her death, within 90 days after the designation.

When income accrued up to the moment of the person's death was not effectively received in life, it should be declared in the following year's annual tax return on 30 April.

4. Exemptions and reliefs

Income received for inheritance or bequests is tax-exempt, as long as notification is made in the annual tax return of the heirs. As mentioned before, if a foreign tax resident receives, due to inheritance, Mexican real estate or shares of Mexican entities, a 25% tax on the appraisal value of the assets will be applicable to the recipient.

The following exemptions may be applied for each item of income received after the liquidation of the succession.

Retirement, pensions, retirement insurance

The MITL establishes that there is no tax due for the following accounts if the daily amount does not exceed 15 times the annual general minimum wage[2] (MXN619,102.8 in 2025) in effect in the taxpayer's geographic area:

- Retirement, pensions, retirement benefits (as annuities or other forms of retirement from the retirement insurance subaccount)
- The retirement, early retirement and old-age subaccount set forth in the Social Security Law
- The individual account of the Retirement Savings System set forth in the Law of the Government Workers' Social Security and Services Institute (Ley del Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado), in cases of disability, early retirement, old age, retirement or death

Income tax shall be paid on the excess amount. The transfer of these accounts to the heirs should also be considered as exempt income for income tax purposes.

Sales

The sale of a home is tax-free when the transferor demonstrates that he or she has not sold another home for which the exemption has been claimed during the three years immediately preceding the date of transfer, provided that the amount of the consideration received does not exceed 700,000 investment units (approximately MXN5.6 million in 2024) and the transfer is executed before a person with notarial functions. Gains shall be determined on the basis of the excess. The annual tax and estimated payment shall be calculated upon such gain and with consideration of the deductions in proportion to the ratio obtained by dividing the excess proceeds between the total consideration. The person with notarial functions shall calculate and make payment of the estimated tax, in accordance with the regulations.

For the sale of personal property other than shares, ownership interest, securities and investments secured by the taxpayer, if the difference between total sales and the acquisition cost of the assets sold exceeds three times the annual general minimum wage[3] (MXN123,820.56 in 2025), taxes must be paid on the excess.

---

[2] From 2018, the UMA replaced the use of the minimum wage for this purpose. The UMA's annual value for 2025 is set at MXN41,273.52.

[3] From 2018, the UMA replaced the use of the minimum wage for this purpose. The UMA's annual value for 2025 is set at MXN41,273.52.

Shares sold or listed on a stock exchange

The tax exemption on gains derived from the sales of shares on Mexico's stock exchange has been repealed. Such exemption was granted to shareholders that held, either directly or through a group of related parties, less than 10% of the shares of the listed company, or even when they held greater amounts of stock or exercised control over the company and did not sell the related shares within a period of 24 months.

From 2014 and onward, a 10% tax is payable on the net gains derived from the sale of shares through Mexico's stock exchange. This tax is not creditable against the taxpayer's final tax liability determined in the annual income tax return. This new tax is applicable on (i) shares or securities that represent shares issued by Mexican companies sold through Mexico's Stock Exchange or shares issued by foreign entities listed in the SIC (Sistema Internacional de Cotizaciones), (ii) securities that represent stock indexes traded on Mexico's Stock Exchange or Mexican Derivatives Exchange, (iii) sale of shares or securities that represent those shares traded on foreign recognized markets of countries that have in place a tax treaty to avoid the double taxation with Mexico and (iv) derivative equity transactions referred to shares placed in Mexico's Stock Exchange or stock indexes that represent those shares, only if the transaction is carried out in Mexico's Stock Exchange, the Mexican Derivatives Exchange or in a foreign authorized market (at least five years of trading):

- The gain or loss will be determined by the broker by comparing the sales price (reduced by the commissions paid for the sale) with the average purchase price (added with the commissions paid for the purchase).
- The average purchase price and the losses incurred will be updated to reflect the inflation effects during the holding period.
- The 10% tax will be determined each tax year, adding the gains and subtracting the losses derived from the trading of each company's stock.
- In order to determine the purchase price of shares acquired before 1 January 2014, a transitional rule established that the taxpayer may opt to determine such price using the 22 closing prices listed during December 2013, or closing prices quoted during the previous six months in cases when the shares are not regularly traded.

5. Filing procedures

Once the process of succession ends, a notice of cancellation of the RFC by liquidation of the succession must be filed by the executor.

Regarding the decedent's obligation to file an annual tax return, the following shall apply:

I. Within 90 days following the date when the executor is appointed, he or she shall file a return for income earned and received by the deceased from 1 January of the year of death up to the moment of his or her death, to pay the relevant tax.

II. Income accrued up to the moment of the person's death that was not effectively received in life shall be subject to the following rules:
   a. Salary income and rental income, as well as income from the provision of professional services, shall be exempt from payment of tax for the heirs or legatees, since such income is considered tax-exempt. Taxpayers who in the fiscal year have obtained total income in excess of MXN500,000, including income on which income tax is not required to be paid and on which the definitive tax was paid, must declare all of their income in their annual tax return. Inheritance should be reported in the Mexican annual tax return for informative purposes only.
   b. Additional income (sale of goods, interest income, dividends, as well as income from entrepreneurial activities, except income prizes) may be considered income received by the deceased person and declared in terms of Section I above, or when the heirs or legatees elect to include such income in their income tax return and pay the corresponding tax.

6. Assessments and valuations

For Mexican tax purposes, assets are valued at the price that they would be reasonably expected to bring if sold in the open market.

For valuations to be considered effective (aside from a determination by the tax authority), they can only be authorized by the following:

1. Experts properly registered before the tax authority
2. Credit institutions
3. Civil or mercantile societies whose specific object is the accomplishment of valuations
4. Main directorate of real estate patrimony
5. Public broker

Experts properly registered before the tax authority will be independent. The main directorate of real estate patrimony and the public broker are the only ones who can conduct the evaluations under the direction of the civil or mercantile societies.

7. Trusts, foundations and private purpose funds

From an estate planning point of view, trusts are often used when making lifetime gifts so that the donor can place constraints on the donee. The trust can be constituted by means of the will, i.e., the goods will be contributed until the death of the testator, or can be contributed before his or her death so that he or she can begin to regulate all aspects of protection, guarantee and administration of the affected goods.

Types of Mexico trusts

Revocable trust

A revocable trust is one in which the trustee reserves the right to reacquire the assets from the fiduciary.

Irrevocable trust

An irrevocable trust is one in which the assets are transferred to the trust without the possibility of reacquiring them.

Creation of trusts and transfers of assets in a trust

The creation of an interest-in-possession trust or a discretionary trust, or the transfer of property into such a trust, is, generally speaking, a chargeable lifetime transfer. The key benefits of the testamentary trust are that it:

- Guarantees that the dispositions of the testator will be met
- Protects assets from unjust claims by a third party
- Can be formalized while the testator is still living
- Can ensure that the assets are safe until the established term ends
- Avoids conflicts between the heirs by stipulating to whom the inheritance belongs
- Grants legal security to legatees and executors

The administrator will determine if the activities carried out through the trust are entrepreneurial activities or non-entrepreneurial activities:

- Entrepreneurial activities are those in which the tax consequences of the activities and the fulfillment of the corresponding tax obligations will be done on behalf of the trustees. Cash or assets from the trust delivered by the trustee to the trust beneficiaries will be considered reimbursements of capital contributed until said capital has been recovered. In addition, these deliveries will decrease the balance of each of the individual capital contribution accounts maintained by the trustee for each beneficiary until the balance of each account has been exhausted.
- Non-entrepreneurial activity occurs if the passive income (i.e., interest, dividends, sale of shares, rental income) generated by the trust represents at least 90% of the total income, in which case the trust will be considered a pass-through vehicle. Therefore, each one of the trustees must determine the corresponding tax effect.[4]

[4] In regard to a trust that generates rental income, the administrator has to make quarterly payments.

Non-Mexican settlements

Trusts incorporated under Mexican legislation are subject to Mexican law regardless of the residence of the settlor at the time of their creation, or the *situs* of the assets held.

When a trust beneficiary is an individual who is a Mexican resident, the portion of the taxable income or tax profit stemming from the entrepreneurial activities conducted through the trust and corresponding to the individual in accordance with the agreement will be considered income from entrepreneurial activities.

Foreign resident trust beneficiaries are considered to have a permanent establishment in Mexico if they are trustees in a trust that is conducting entrepreneurial activities. These permanent establishments must file annual income tax returns for the portion of the taxable income or tax profit derived from said activities corresponding to them for the fiscal year.

Under the 2020 Mexican tax reform, Article 4-A of the MITL was introduced. This provision, effective 1 January 2021, sets forth that a trust incorporated under foreign laws will be considered as a tax resident in Mexico when its main administration or the effective place of management is located in the country. In that case, it will be subject to a 30% income tax on its worldwide income.

If the trust's main administration or effective place of management is located abroad, the trust will not be considered as a tax resident in Mexico and, consequently, will be taxed as a legal entity on their Mexican sourced income, in accordance with the provisions of Title V "of foreign residents with income from a source of wealth located in Mexican territory" of such MITL.

8. Grants

Regarding estate taxes, there are no specific rules in Mexico.

9. Life insurance

Income tax will not be due on amounts paid by insurance companies to the insured or beneficiaries for life insurance contracts when the premium was paid directly by the employer on behalf of its employees, and the benefits of the policy are paid only in the event of death, disablement, organ loss or disability of the employee, preventing him or her from performing a dependent service, in accordance with the social security laws. When a policy covers the death of the policyholder, the beneficiaries must be the spouse, the common-law spouse, or his or her lineal ascendants or descendants in order for the payments to be tax-exempt. It should be noted that the tax exemption will only be applicable when the insurance payment is made by insurance institutions incorporated under Mexican law that are authorized to organize and operate as such by the competent authorities.

No exemption will apply to amounts paid by insurance companies as dividends derived from the insurance policy.

10. Civil law on succession

10.1 Successions

Succession is generally restricted to the transfer of goods and property caused by the death of the testator and is therefore considered the equivalent of inheritance. From an objective perspective, we can identify inheritance as the aggregate of goods that are transferred to another person due to death and, from a legal perspective, the transfer of rights and obligations from one person to another due to death.

Succession includes all the rights and obligations of the *decujus* (the deceased) that were not extinguished with his or her death, as per the Federal Civil Code of Mexico.

Therefore, there are three types of succession:
1. Testamentary: determined by the personal will of the person behind the inheritance, the testator
2. Legitimate: the civil authority's application of the will that is presumed to be that of the person behind the inheritance
3. Mixed: this includes a combination of both types described above (i.e., part testamentary and part legitimate, or intestate), due to the person not disposing of all the rights and obligations within his or her legal sphere

10.2 Testamentary succession

A testament (or will) is defined as a personal, revocable and free legal act, through which a person with full legal capacity transmits his or her goods and rights and declares the fulfillment of obligations for after his or her death. Three basic elements must exist in a testamentary succession:
1. The right of the testator to dispose of his or her goods while alive
2. The duty of the testator to fulfill the obligations and duties owed to his or her family members
3. The obligation to fulfill any and all obligations that the testator might have with third parties and that are considered legal

Interpretation of the will is a special aspect of legal interpretation in general, which implies that the testament is never to be considered in isolated wording or terms, but as a single act of the author's will.

Any and all persons not precluded by law can become a testator; those precluded by law are persons younger than 16 years old, persons without full legal capacity or those who generally or incidentally are not in his or her full judgment capacity.

Any person of any age, individual or collective, can be designated as an heir, unless their legal capacity is lost by any of the causes mentioned in the law: lack of legal personality, having been sentenced for the commission of a crime, presuming alterations or influence on the free will of the testator, among others.

The testator can dispose of his or her goods in full (universal disposal) or in part (particular disposal). People who inherit the total rights and obligations of the testator are designated inheritor. Inheritors or heirs are expected to respond to any credits that the inheritance has due. For example, if the inheritor succeeds the testator by becoming the legal owner of all the properties of the latter but one of them is under a mortgage, the inheritor must pay for such obligation using the rest of the properties until the debt is covered, or until the value of the received properties can cover.

Legatees may inherit parts of the testator's rights and obligations. For example, the legatee can inherit a set of paintings or works of art and nothing else.

Testaments can be classified as ordinary and special. Ordinary testaments are granted under normal circumstances and are divided into open or public testament, simplified testament or handwritten.

Special testaments are granted in times and places where it is unusual or extraordinary to do so. They include private testament, military testament and maritime testament that can be granted in another country.

Each case's applicable conditions are subject to the local valid legislation of the state where the testament is executed.

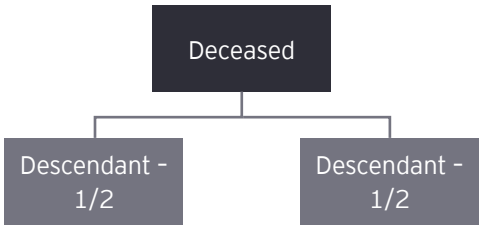
10.3 Legitimate or intestate succession

In the event an individual dies without leaving a will, or if there are assets that were not referred to in the will, the Civil Codes of each state contain the rules under which such assets shall be distributed. However, there are some general rules to follow:

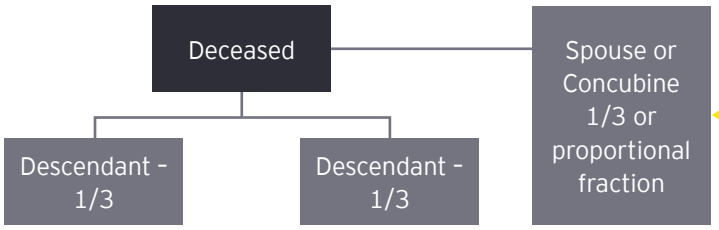
The following persons possess the right to inherit:
- Descendants, spouses or domestic partners
- Ancestors, in the absence of descendants, spouses or domestic partners
- In the absence of all of the aforementioned, collateral relatives up to fourth degree, with preference placed on brothers or, in the absence of these, relatives in increasing degree
- In the absence of these, public welfare

The specific rules bound by the criteria applicable to succession are noted in the charts below:

1. If only first-degree descendants

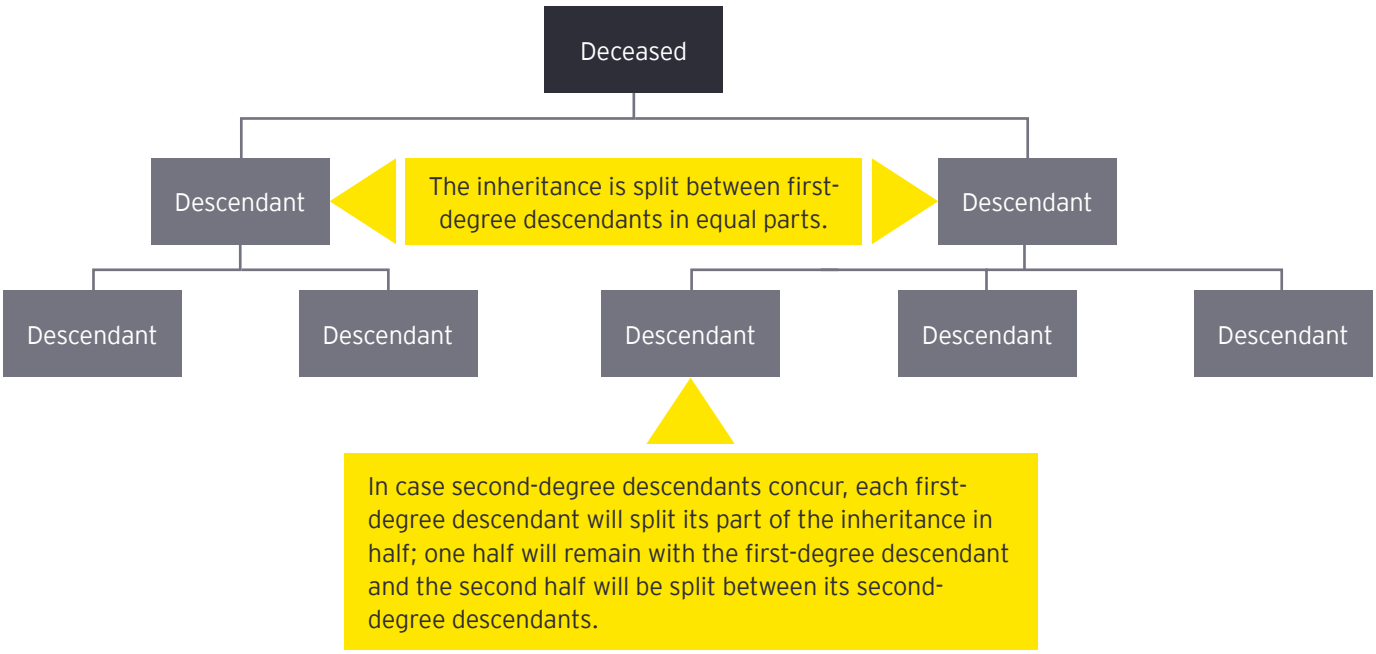


2. If spouse concurs with first-degree descendants

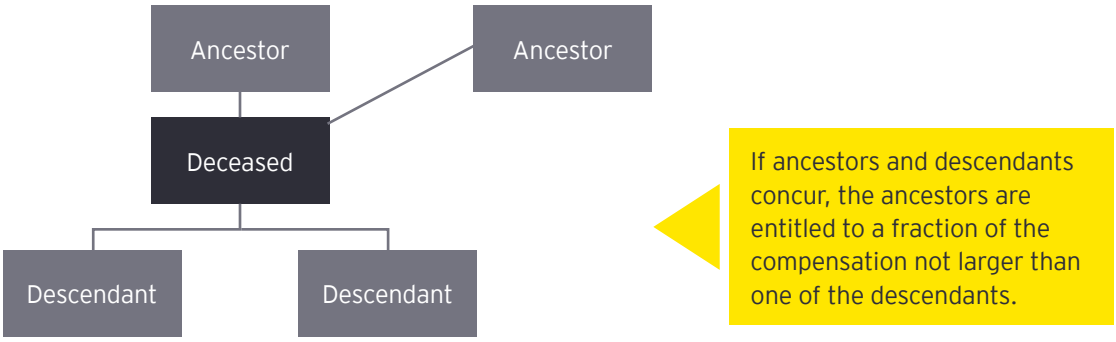


The surviving spouse, if concurrent with descendants, will be granted the rights of one of them, if such spouse does not possess any goods or properties or the ones possessed at the time of the death of the deceased do not match the portion that each child is entitled to.

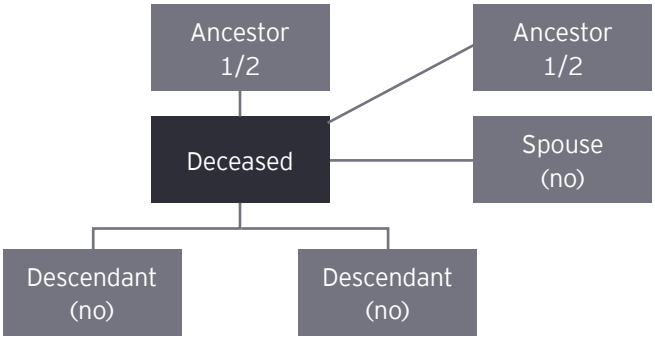
3. If first-degree descendants concur with second-degree descendants



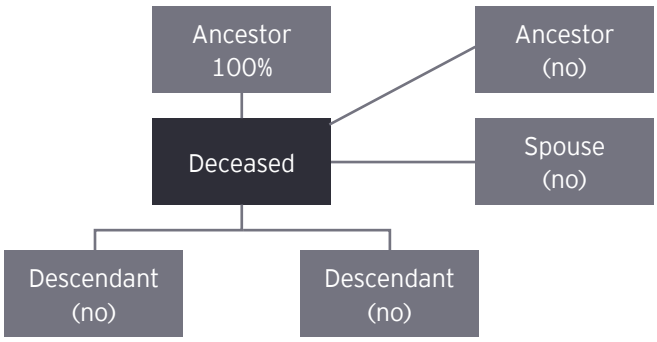
4. If first-degree descendants concur with ancestors



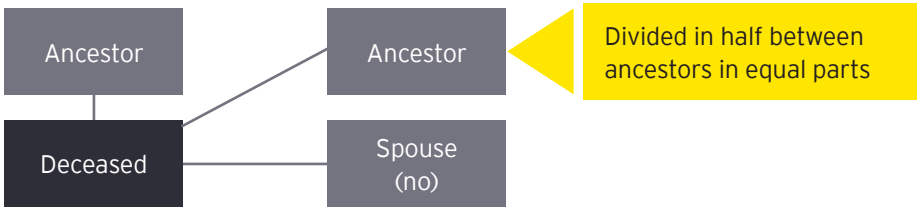
5. If only ancestors



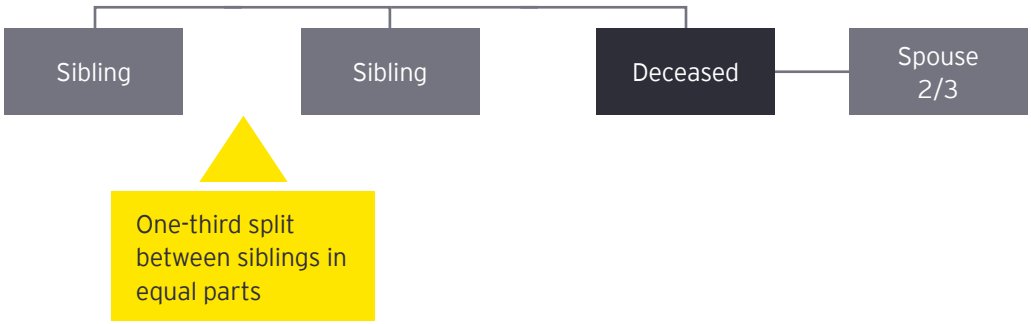
6. If only ancestor



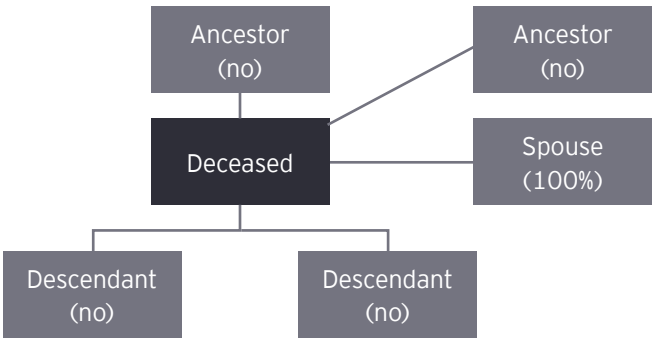
7. If ancestors concur with spouse



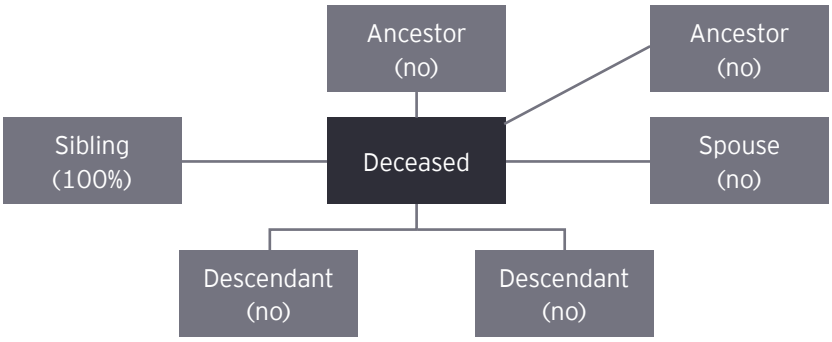
8. If spouse concurs with siblings



9. If only spouse



10. If only siblings



11. Estate tax treaties

11.1 Unilateral rules

Mexico does not have specific rules on tax credits or transfer of properties abroad.

11.2 Double-taxation treaties

Mexico has not signed any gift or inheritance tax treaties.

Monaco

EY contacts:

Monaco GMT +1

Ernst & Young Le Mercator
7, Rue de l'Industrie, MC
98000, Monaco

Main Tax contacts

Geraldine Garcin-Peiffert
geraldine.garcin-peiffert@ey-avocats.com
+33 6 74 89 05 13

Lionel Benant
lionel.benant@ey-avocats.com
+33 6 80 11 58 44

Global Compliance and Reporting

Sandrine Arcin
sandrine.arcin@mc.ey.com
+33 6 14 95 02 25

1. Income tax

Monegasque nationals and foreign nationals residing in Monaco, except for French nationals, who are regulated by the 1963 bilateral tax treaty between France and Monaco, are not liable for income tax. However, the absence of income tax for individuals only relates to activities carried out and persons who are genuinely established in Monaco. This does not affect rules applied by other states.

2. Other taxes

2.1 Wealth tax

Wealth tax does not apply in Monaco, except for French assets.

2.2 Property tax

Property tax is not levied in Monaco.

2.3 Inheritance and gift taxes

Inheritance and gift taxes apply only to assets located in Monaco or with a situs in Monaco, regardless of the domicile, residence or nationality of the deceased person or donor (subject to the provisions of the tax treaty between France and Monaco of 1 April 1950).

The standardization of international succession rules applicable in the European Union, introduced by the European Regulation (EU) no. 650/2012 dated 4 July 2012 and entered into force 17 August 2015 (except in England, Ireland and Denmark, which have not ratified this regulation) appears to have served as a powerful catalyst for the declaration on 28 June 2017 of Monegasque Law no. 1448 on private international law, making it possible to anticipate the law applicable to successions.

The Monegasque Law dated 28 June 2017 provides numerous specifications, including the criteria for determining nationality and domicile, the jurisdiction of the Monegasque courts, the rules of recognition and performance of foreign judgments and foreign public deeds, as well as provisions on the scope and recognition in Monaco of trusts established outside of Monaco. One of the important measures of the Monegasque private international law reform is the possibility to choose the law applicable to the succession, which facilitates new ways to organize the succession from both a civil law and a tax law standpoint.

The principle of a single law applicable to an entire succession has replaced the dual regime which distinguished immovable succession, governed by the law of the state in which the property is located, and movable succession, which is attached to the deceased and governed by the law of the state of his/her last domicile or by the law of the state of which the deceased was a citizen.

2.4 Monegasque inheritance and gifts duties' rates

The tax rates depend on the nature of the relationship between the deceased person or donor and his or her heir or donee. The following are the rates:

- No tax for legacy between spouses or for children
- Between partners of a civil union agreement: 4%
- Between siblings: 8%
- Between uncles and aunts, and nephews and nieces: 10%
- Between other relatives: 13%
- Between unrelated persons (including charities and corporate entities): 16%

Law No. 1.481 of 17 December 2019, relating to civil union agreements, recognizes two forms of civil union agreements:
- One for couples living together: a shared life agreement applicable irrespective of sexual orientation
- The other one for family members cohabiting together: cohabitation agreement

This law provides for a new rate of 4% applicable to transfer by gift or inheritance between partners of a shared life agreement, subject to certain conditions.

The law came into force on 27 June 2020, six months after its publication in the Official Journal of Monaco on 27 December 2019.

On 27 July 2022, the Monegasque National Council adopted the draft law n°1049 reforming gift and inheritance tax in Monaco for trusts governed by foreign law.

The draft law provides that, as of 27 July 2022 the transfer tax might not apply to transfers by gift or inheritance of property located in Monaco that was placed in a trust under foreign law, depending on the relationship between the settlor and the beneficiary.

This reform only concerns trusts governed by foreign law, not those constituted or transferred to the Principality of Monaco.

The identity of the beneficiary, as well as his or her family ties with the settlor, must be established in writing on the basis of official documents, according to the law governing the trust.

2.5 Tax on income from savings

An agreement between Monaco and the European Union (EU), signed in Brussels on 7 December 2004, sets out measures equivalent to those in European Directive 2003/48/CE of 3 June 2003, the so-called "savings directive." However, this directive was repealed in November 2015.

2.6 Transfer tax

Sales of real estate located in Monaco, shares in a Monegasque SCI (Société Civile Immobilière) and shares in other types of companies are subject to transfer tax.

2.7 Trusts

Trust incorporation or trust transfer in Monaco is subject to a proportional right of registration varying according to the number of successive beneficiaries of the trust. The capital of the trusts represented by Monegasque securities is subject to a reduced proportional duty in consideration of the number of successive beneficiaries of the trust.

According to the Monegasque Law n°1.381 of 19 June 2011, any foreign entity owning a Monaco property has to appoint a Monaco tax representative (duly authorized in a specific list by Monaco Authorities) and file a yearly declaration of change (or non-change) of beneficial owner. Indeed, the change of a beneficial owner entails the payment of a 4.5% transfer tax assessed on the fair market value of the Monaco property.

Since the law is quite recent, there have been various questions with regard to the scope of the law. In this context, the Monaco tax authorities have previously provided an official position regarding the application of said law and the definition of "change of a beneficial owner," which may be summed up as follows:

1. A change in the beneficial ownership of a Monaco property, although minor, entails the payment of the 4.5% transfer duty on the entire fair market value of the property (no prorate taxation). For instance, should a shareholder transfer a 1% stake to a new shareholder, the offshore entity will nevertheless be liable for the transfer duty on 100% of the value of the underlying asset(s).
2. The addition/withdrawal of a beneficial owner is considered as a change in the beneficial ownership of the property and therefore entails the payment of the 4.5% transfer duty.
3. If the identity and the percentage of ownership of the ultimate business owner (UBO) is not modified, and if there has not been any change in the legal personality of the owning entity, changes in the intermediary structure (such as between the UBO and the property holding company) do not entail the payment of the transfer duty.

To be noted that to reflect leading European practices, Monaco published Law n ° 1.503, dated 23 December 2020, reinforcing its system for the fight against money laundering, terrorist financing and corruption. This law corresponds to the transposition of the 5th European Directive. It has numerous and significant consequences for all Monegasque economic players and their clients. In particular: the expansion, under certain conditions, of access to the registers of beneficial owners and trusts, the creation of a new "register of bank accounts and safes" listing information relating to the opening, modification and closure of bank accounts, as well as the rental of safes by financial institutions. In addition, the new law strengthens due diligence obligations by tightening controls and the formalism of KYC procedures for financial institutions in particular, and business relations and transactions involving "high-risk states or territories." These new measures will soon have to be completed and clarified by means of sovereign ordinances and ministerial orders.

Since the adoption of the MONEYVAL Law in July and August 2023, the Monegasque legislator introduced new obligations notably for the Monegasque SCP to strengthen its measures to combat money laundering and terrorist financing. Such obligations should be extended to the trusts and should come into force in 2024. The measures should be the following:

- Obligation to file a beneficial owner's declaration maintained
- Obligation to keep a register of the beneficial owners, indicating their identity. The identity of the person responsible for the register must be communicated to the Economic Development Department. The information in this register must always be kept up to date
- Obligation to confirm each year, in the month following the anniversary date of their entry in the register, that they are pursuing their activity. On this occasion, the trust confirms the information provided upon registration or the amendments made in the meantime

Failure to comply with these new obligations should be subject to administrative and criminal penalties.

3. Double-tax treaties and other agreements

3.1 Double-tax treaties

Monaco has entered into double-taxation treaties, some of which relate to inheritance tax, with the following countries: France, Guernsey, Liechtenstein, Luxembourg, Mali, Malta, Mauritius, Qatar, St. Kitts and Nevis, and Seychelles.

Netherlands

EY contacts:

Rotterdam

EY
Boompjes 258
3011 XZ Rotterdam
Netherlands

Willem Jan Vermeer
willem.jan.vermeer@nl.ey.com
+31 6 29083434

Roxana Bos-Schepers
roxana.bos@nl.ey.com
+31 6 29083317

Amsterdam

EY
Antonio Vivaldistraat 150
1083 HP Amsterdam
Netherlands

Marieke Kopinsky
marieke.kopinsky@nl.ey.com
+31 6 29083460

Jonathan van Oostenbrugge
jonathan.van.oostenbrugge@
nl.ey.com
+31 6 55442552

1. Types of tax

Based upon the Succession Code 1956 (the Code), two types of tax are levied:
1. Gift tax
2. Inheritance tax

Technically, neither tax is considered an estate tax because the tax is not levied on the estate as such, but each tax is levied on the person who acquires property by way of gift or bequest. Some inter vivos transactions may also be liable to inheritance tax. This applies to inter vivos transactions that actually take effect upon death (e.g., life insurance contracts and third-party contracts). This will be explained further below.

Before 1 January 2010, transfer duty was levied from the person who acquired Dutch situs property by way of gift or bequest in case the donor or the deceased was not (deemed) resident in the Netherlands at the time of the gift or the bequest. The transfer tax (gift/inheritance tax regarding Dutch situs property) was abolished in 2009.

1.1 Inheritance tax

Inheritance tax (IHT) is levied on all assets (located worldwide) of a decedent who was a resident or was deemed to be a resident of the Netherlands at the time of his or her death. Whether that person was a resident of the Netherlands at the time of his or her death is based on an evaluation of all the facts and circumstances. For further explanation on the Dutch residency concept, see section 2.

As mentioned briefly above, the Dutch Succession Code 1956 contains several provisions under which the results of certain inter vivos transactions are deemed to have occurred by the application of inheritance law. Therefore, everything that is acquired by way of that inter vivos transaction is subject to IHT.

In general terms, the most important of these provisions are the following:
- Receipt of property based on a provision in certain (pre)nuptial agreements that provide for a transfer of property upon death
- Receipt of property on the condition that the person who receives it is alive at the time of demise of the donor
- Property transferred during the lifetime of the deceased subject to a usufruct in his or her favor that lasts until death
- Property of which the deceased acquired the usufruct when the usufruct is financed out of the property of the deceased
- All gifts received within a period of 180 days before death
- Receipt of the proceeds of life insurance if the deceased was legally obliged to contribute to the premiums paid for such insurance
- Property acquired by way of third-party contract, if the property is received at the time of death or after the death of the promisor, unless no consideration has been paid for the property received by the promisor/deceased

Another provision holds that the increase in value of the shares in a closely held company (which shares are not owned by the deceased) as a result of the demise of the deceased is deemed a taxable acquisition for IHT purposes. This applies only to the shares owned by certain close family members of the deceased. Normally, the increase in value is caused by the fact that the company no longer has any obligations with respect to the pension rights of the deceased.

The sum subject to inheritance tax is the fair market value (FMV) of the bequest at the time of death. Generally, the heirs are obliged to pay the debts of the deceased. A sum representing the obligation of the heirs to pay the liabilities (if any) of the deceased can be subtracted from the value of the acquisition. The FMV is determined based on objective standards (i.e., the price an independent third party is willing to pay for the property concerned). Special provisions apply for the valuation of a right of usufruct, annuities and residential property.

All enforceable debts of the deceased (including funeral costs) are tax deductible.

Deferred income tax liabilities can be considered up to the following amounts:
- 30% of the value of the reserves of a company, made to provide for pension obligations
- 20% of the hidden reserves included in acquired business assets
- 30% of the value of an acquired right to receive periodic payments
- 6.25% of the difference between the FMV and the acquisition price of substantial interest shares

1.2 Gift tax

Gift tax is due on the value of all gifts made by a person who was a resident or was deemed to be resident in the Netherlands at the time of the gift. As with the rules for levying inheritance tax, when determining whether the donor was a resident of the Netherlands at the time of the gift, all facts and circumstances are considered.

The concept of a gift can be summarized as follows: every act (or probable omission) that results in an enrichment of the donee and in an impoverishment of the donor and was caused by the intention of the donor to enrich the donee. This description not only covers the contract that is explicitly called donation in the Dutch Civil Code, but also covers transactions that are not donation contracts (i.e., a sale at an undervalue, a partition of co-owned property under which one of the co-owners is favored over the other or third-party contracts that result in an enrichment of the third-party beneficiary).

Gifts may be shaped as revocable or irrevocable.

Gifts acquired from the same donor within a calendar year are treated as one gift.

Spouses and unmarried partners are deemed to be one and the same person for gift tax purposes. Parents are considered as one donor regarding all gifts to their children within one calendar year. These rules should be considered when calculating the gift tax due.

The Code contains some provisions under which a gift is deemed to have taken place. Apart from gifts received from irrevocable discretionary trusts (see hereafter), these provisions are, among others, the following:

- If an obligation (a debt) can be called in at any time and bears no interest or an interest lower than 6%, then during the time the debt is not called in by the creditor, it is assumed that the creditor donates a usufruct of the debt to the debtor.
- For gifts under a condition precedent (e.g., a gift by way of *fideïcommissum*), it is assumed that the gift has taken place at the time when the condition becomes fulfilled. If the donor has died when the condition becomes fulfilled, it is assumed in the tax code that the donee received the donated property out of the inheritance of the donor.

1.3 Real estate transfer tax

In principle, real estate transfer tax (not an inheritance tax) is payable upon any transfer of (deemed) real estate. Acquisitions by way of inheritance and matrimonial regime are not regarded as transfers and, therefore, are tax-exempt.

1.4 Endowment tax

Endowment tax, separate from gift tax, is not part of the Dutch tax system.

1.5 Net wealth tax

In the Dutch system, net wealth tax as such is and was nonexistent, but income tax was levied on the deemed income on the value of net wealth (excluding the family home and substantial interests in companies). Under this so-called box 3 system, the effective tax rates for the year 2022 would have varied from 0.56% up to 1.71% each year, depending on the value of the total net wealth on 1 January of the calendar year, but regardless of the actual asset mix or the actual returns.

On 24 December 2021, the Dutch Supreme Court ruled that since 2017 this box 3 system has been in violation of the Convention for the Protection of Human Rights and Fundamental Freedoms, specifically the protection of property and the prohibition on discrimination.

Therefore, the government implemented an alternative system for the year 2023 and beyond under which the new starting point is the actual asset mix of the taxpayer with each category of assets having its own deemed return. The categories of assets are cash and bank deposits (including savings), other possessions, and debts. The deemed return for "other possessions" has been set at 5.88% for 2025. The deemed returns for savings and debts will be determined at a later stage for 2025.

On 6 June 2024, the Dutch Supreme Court ruled that this alternative box 3 system for the years starting in 2023 also violates the Convention for the Protection of Human Rights and Fundamental Freedoms. There is a violation when the deemed income in box 3 is higher than the actual return. The legal remedy should be provided by aligning with the actual return.

The government's aim is to have a new box 3 system based on actual returns as from 2027.

2. Who is liable?

2.1 Residency

The Dutch legislation does not distinguish between residency and domicile.

As mentioned, IHT is levied on all assets (located worldwide) of a decedent who was a resident or who was deemed to be a resident of the Netherlands at the time of his or her death.

Whether that person was a resident of the Netherlands at the time of his or her death is based on an evaluation of all the facts and circumstances. For example, such circumstances are place of work, location of a dwelling house, and the place of somebody's family and social life/friends. The applicable criteria to establish a person's residence for inheritance and gift tax purposes are generally the same as the applicable criteria for establishing residence for income tax purposes under local Dutch law.

Persons who have Dutch nationality are deemed to be resident in the Netherlands for inheritance and gift tax purposes during a period of 10 years after having emigrated from the Netherlands. The Court of Justice of the European Union (CJEU) has ruled that the "10-year rule" does not violate EU law.

Gift tax is due on the value of all gifts made by a person who was a resident or who was deemed to be resident in the Netherlands at the time of the gift. As with the rules for levying inheritance tax, when determining whether the donor was a resident of the Netherlands at the time of the gift, all facts and circumstances are considered (see above). For gift tax purposes, persons who have been resident in the Netherlands and do not have Dutch nationality are deemed to be a resident of the Netherlands for a one-year period after departure from the Netherlands.

The person who acquires property by way of bequest or gift is liable to pay the taxes due. If an executor is appointed, he or she is required to fulfill all obligations imposed by the Succession Code 1956 in the same way as the heirs and the executor is liable for the inheritance tax due to the tax authorities.

3. Rates

The rates for inheritance tax and gift tax are the same. The following rates are all based on figures that apply in 2025.

A so-called double-progressive system applies. The applicable tax rate depends on the relationship in existence between the person who acquires property and the deceased person or the donor (e.g., he or she is a child or a brother or sister). Furthermore, the amount of tax due also depends on the size of the acquisition.

The rates are split into three categories:

Partner and the children	10% up to 20% for acquisitions above EUR154,197
Grandchildren	18% up to 36% for acquisitions above EUR154,197
Other persons	30% up to 40% for acquisitions above EUR154,197

Only one person can be designated as the partner for purposes of the Inheritance Tax Act. This partner is:
- The spouse.
- The registered partner.
- The adult person with whom the adult donor or deceased had a municipally registered joint household at least six months before death (for gifts, two years at the moment of the gift) and with whom a notarial cohabitation agreement was drawn up, which contained a mutual duty of care. Persons related in a direct line cannot be partners for IHT/gift tax purposes.
- If a notarial agreement with a mutual duty of care is not available, the person with whom the donor or deceased kept a municipally registered joint household for a period of at least five years.

4. Exemptions and reliefs

Several exemptions apply for inheritance tax and gift tax. The following amounts are all based on figures that apply in 2025.

The most important exemptions for inheritance tax are:
- Acquisition by the state, a province or a municipality of the Netherlands
- Acquisition by a Public Benefit Organization that has been characterized as such by the Dutch tax authorities (in Dutch an *algemeen nut beogende instelling* or ANBI), provided the public benefit is served
- Acquisition by the surviving partner: minimum exemption of EUR207,886 and maximum exemption of EUR804,698 depending on the value of any pension rights, half of which is subtracted from the exempt amount of EUR804,698 (but the mentioned minimum exemption always remains)
- For sick and disabled children: EUR76,453
- Exemption for children and grandchildren: EUR25,490
- Exemption for parents: EUR60,359
- Exemption in all other cases: EUR2,690

All exemptions apply regardless of the amount of the acquisition.

The most important exemptions for gift tax are:
- Gifts received from the King or other members of the Royal Family, from the state, a province or a municipality of the Netherlands
- Gifts from parents to their children: EUR6,713:
  - In addition, there is a general one-off exemption of EUR32,195 for a gift to a child whose age is between 18 and 40. This exemption may be raised to EUR67,064 if the gift is used to fund an expensive education.
  - Other gifts up to an amount of EUR2,690
  - Gifts received from a Public Benefit Organization that have been characterized as such by the Dutch tax authorities (ANBI), provided that the gifts are done in the public benefit
  - Gifts received by a Public Benefit Organization that have been characterized as such by the Dutch tax authorities (ANBI), provided the public benefit is served

All exemptions apply regardless of the amount of the acquisition.

4.1 Exemptions and reliefs for business property

If business property is donated by way of gift or acquired by way of bequest, an important exemption applies (business succession facility). This facility also applies to the acquisition of shares that constitute (in the hands of the donor or deceased) directly or indirectly a substantial interest (5% or more) in an active trading company.

If all legal requirements for application of the business succession facility are satisfied, the value of the total business up to EUR1,500,000 (2025) is exempt (the 100% exemption). For the possible remainder value of the business (assets), an exemption of 75% applies. Some specific assets are deemed nonbusiness assets, like (as of 2024) real estate that is rented to third parties and debts directly related to this real estate.

The deceased must have been an entrepreneur during the entire year prior to his or her death, so as to avoid the situation where taxable assets (nonbusiness property) are converted into exempt assets (business property) while death is imminent. For gifts, this period is five years.

When business property is donated by way of gift, the acquirer must have reached the age of 21.

After the acquisition of the business property, the acquirer must continue the business for at least three years.

When the acquisition concerns shares, the acquirer must keep the shares for at least three years next to the three-year business continuation condition.

An inheritance tax assessment will be prepared for the nonexempt acquisition only. Regarding this nonexempt acquisition, the option exists to obtain a 10-year postponement of payment of the tax. During this period, interest becomes due in regard to the tax payable in the future.

A lower Dutch court decision stated in 2013 that this business succession facility should also be applied to nonbusiness property because this facility is contrary to the principle of equality. However, the Supreme Court decided that the business succession facility does not violate this principle. The legislator is allowed to make a distinction between taxing business assets and taxing investment assets, according to the Supreme Court. The judgment of the Supreme Court was confirmed by the European Court of Human Rights in 2014.

4.2 Exemptions and reliefs for country estates

A country estate qualifies as such if real estate located in the Netherlands (possibly wholly or partially covered by living accommodation) is of such public interest that its preservation is considered to be of importance to the natural/scenic beauty of the countryside.

In its judgment (case number C-133/13) of 18 December 2014, the CJEU held that an estate also qualifies as a country estate if the estate is located outside the Netherlands and contains an element of Dutch cultural heritage. This extension should be applied retroactively as from 18 December 2014. The judgment applies to estates located in EU Member States as well as to estates located in third countries with which a treaty has been concluded regarding the exchange of information.

The status of a country estate is granted on application by the Ministries of Agriculture and Finance.

A distinction is made between property that is open to the public and property that is not open to the public. If the property is open to the public, the entire amount of inheritance or gift tax due is not collected (exemption of collection). If the property is not open to the public, inheritance tax or gift tax will be collected with regard to a reduced tax base.

The value of the property is, in principle, determined based on the FMV, although certain depreciating factors will be taken into consideration. Generally, a 10% to 40% discount on the FMV applies.

The allowances mentioned are available only if the acquirer retains ownership for at least 25 years, during which period the country estate needs to remain qualified. However, the allowances remain applicable if the qualifying country estate is transferred during the 25-year period without consideration (i.e., by way of gift or bequest).

As an anti-abuse measure, the exemption of collection or relief is not available if the deceased buys the country estate from his or her heir(s) and dies within five years of the acquisition.

4.3 IHT debt write-off possible for objects of art or cultural value

If objects of art or cultural value are part of the estate of a deceased, the heirs can request the Minister of Finance to grant an IHT debt write-off. This tax debt write-off is only applicable under certain conditions, of which the most important is that the cultural objects must be transferred to the Dutch State. The tax debt write-off is 120% of the value of the objects with a maximum of the IHT that is due. The tax debt write-off can only be applied to certain cultural objects that are deemed to be of national interest.

5. Filing procedures

An inheritance or a gift must be declared. For inheritance tax purposes, a tax return needs to be filed within eight months after the time of death of the deceased. For gift tax, a two-month period starting at the end of the calendar year in which the gift was made applies. After the tax return has been filed, the tax authority will impose a tax assessment stating the tax due. Payment of the tax is due six weeks after the date of the tax assessment.

6. Assessments and valuations

As mentioned earlier, the sum subject to inheritance tax is generally the FMV of the bequest at the time of death. The FMV is determined based on objective standards (i.e., the price an independent third party is willing to pay for the property concerned). Several exemptions on this general rule are mentioned hereafter.

The value of the dwellings is determined based on the (Dutch) Real Estate Appraisal Act, which can differ from the FMV.

Special provisions apply for the valuation of a right of usufruct and for annuities.

The (fictitious) value of the lifetime right of usufruct is calculated considering an actuarial interest rate of 6% and the age of the acquirer.

The (fictitious) value of lifelong annuities is calculated considering the age of the acquirer and the amount of the annuity.

7. Trusts, foundations and private purpose funds

7.1 Trusts and foundations

The concept of the trust is unknown in Dutch civil law. Dutch law is familiar with the distinction between real rights and personal rights (e.g., applied in the distinction between legal ownership and economic ownership), but is unfamiliar with a distinction between legal interests in property and beneficial interests in property.

Apart from this, the way in which ownership can be split up into different legal interests differs widely from the way in which such a division occurs under Anglo-American law.

Since 1 February 1996, however, the Netherlands is a party to the 1985 Hague Treaty on the law applicable to trusts and their recognition.

In some civil law jurisdictions, foundations are widely used in family estate planning. The concept of the foundation is known in Dutch civil law; however, the possibilities to use a Dutch foundation for family estate planning are limited. This is due to a provision in the Dutch Civil Code that states that the purpose of the foundation cannot be to benefit the person who establishes the foundation or any person who belongs to the board of directors of the foundation. Other persons can only benefit from the foundation if the character of the distributions made by the foundation could be categorized as being of a social character or is acknowledged to have an idealistic tendency.

As of 1 January 2010, irrevocable discretionary trusts and other entities of functional similarity, such as family foundations, are regulated in the areas of income tax, gift tax and inheritance tax. See section 7.2.

7.2 Private purpose funds

As of 1 January 2010, fiscal rules for private purpose funds (PPFs) entered into force. PPFs include Anglo-American trusts and family foundations. According to the law, a PPF is a fund that "serves private interests more than incidentally."

The tax rules regarding PPFs do not apply to all kinds of trusts (and foundations) but do apply to those entities that can be characterized as irrevocable and discretionary in character. When such entities are used, there is no individual that owns enforceable rights against the trust (or the foundation). When the trust (or foundation) can be qualified as fixed, these legal rules do not apply and the enforceable rights need to be qualified in accordance with Dutch tax law, and as such, those qualified interests are subsequently taxable.

For income tax, IHT and gift tax purposes, the assets, liabilities, income and costs of the PPF are attributed to the settlor (provided the settlor is also the one who contributed to the PPF). When the settlor has died, the attribution is made to the heirs of the settlor. A person who is disinherited in the settlor's will, but is nevertheless a beneficiary of the PPF, is also considered as an heir. If an heir is not a beneficiary of the PPF, the heir can avoid the attribution of assets, etc. of the PPF by proving to the tax authorities that he or she is excluded as a beneficiary and has no opportunity whatsoever to become a beneficiary in the future.

Upon the death of the person to whom the assets and liabilities are attributed, the assets and liabilities of the PPF are treated as part of his or her inheritance. As a result, the net value is taxed with inheritance tax. Inheritance tax will only become due when this person is a (deemed) resident of the Netherlands at the time of his or her death.

When distributions are made from the assets of the PPF to a beneficiary, the law assumes they are a gift by the settlor to the beneficiary. If the settlor has passed away, the law assumes distributions are gifts from the heirs of the settlor to the beneficiaries (no gift tax is due in case of pro rata distributions to the heirs, i.e., according to their respective heirship).

The law contains provisions that give the tax authorities power to execute PPF assets for a tax debt of the person to whom the property of the PPF is attributed. The law also provides for a possibility for the tax authorities to execute assets that belong to a legal entity in the Netherlands of which the PPF owns more than 5% of its shares. This means that when the holding of the PPF amounts to, say, 5%, the tax authorities are empowered to execute assets of the company directly or indirectly held by the PPF that correspond to the value of the 5% holding.

8. Grants

There is no specific concept of grants under Dutch tax law.

9. Life insurance

As mentioned earlier, the receipt of the proceeds from life insurance is taxable as if it were an acquisition by way of inheritance insofar as the deceased was legally obliged to contribute to the premiums paid for such insurance. This rule, therefore, does not apply if the premiums are legally completely a burden of the private property of the beneficiary.

10. Civil law on succession

10.1 Estate planning

Generally, estate planning concerns the practice in which civil law concepts and tax law are combined to achieve an optimal transfer of family wealth between the members of a family.

10.2 Succession

Normally, the succession is regulated by way of a will. Mutual wills are void in the Netherlands. The same applies in regard to agreements on succession. Although the possibility of a holographic will exists, normally, wills are made by notarized deed. To the extent the deceased had not disposed of the inheritance, the intestacy rules apply.

10.3 Intestacy

If a person dies without a will, the decedent's estate passes under the rules set out in the Civil Code. The order of succession is based on four groups whereby the persons that belong to a subsequent group do not benefit until all the members of a preceding group are exhausted. The heirs are classified in the following order:

- The surviving spouse together with the deceased's children and further descendants
- The parents together with the deceased's brothers and sisters and their descendants
- The grandparents of the deceased
- The great-grandparents of the deceased

Descendants of children, brothers, sisters, grandparents and great-grandparents benefit per stirpes. All heirs of a group are entitled to equal shares.

If a deceased leaves a spouse and one or more children as heirs, the law provides that all assets in the estate pass to the surviving spouse absolutely. However, the children as heirs then receive a monetary claim equal to their portion (statutory partition). Under certain circumstances (e.g., remarriage of the surviving spouse), the children can call in their monetary claim. The statutory partition is applicable automatically, unless the deceased excluded the entire statutory partition by means of a last will.

10.4 Forced heirship

As of 2003 the inheritance law provides for a compulsory share for the descendants of the deceased, but the persons entitled to the compulsory share are not considered as heirs but as creditors of the heirs.

The compulsory share of a child is half of the share that the child would acquire according to the rules that apply to intestate succession. To calculate this share, the value of the estate plus gifts made within five years of death are taken into account. However, older gifts are taken into consideration when those gifts were made to persons who are entitled to a compulsory share.

The surviving spouse does not have a compulsory share, but when the surviving spouse is left behind without any means, the Civil Code provides for certain maintenance provisions.

10.5 Matrimonial regimes and civil partnerships

If the couple did not conclude a prenuptial agreement prior to the marriage, up to 2018, the Dutch regime of the universal community of property became applicable at the moment the marriage was concluded. Under this regime, all assets and all debts of both spouses become part of the community of property regime. Both spouses participate equally in the community. Gifts and inheritances also become part of the community regime regardless of whether they were acquired before or during the marriage. An exception applies only to a gift or bequest that was made subject to an exclusion clause. In that case, the donor or the deceased explicitly provided that the acquired property will not become a part of the community of property regime of the couple.

As of 1 January 2018, a new Dutch standard regime of a more limited community of property applies. Under this regime, only assets and liabilities acquired by the spouses during the marriage become part of the community of property regime, in which both partners participate equally. Premarital assets and liabilities only become part of the community of property if the partners already had joint ownership of assets/liabilities before the community became applicable. Gifts and inheritances are also excluded from the community of property regime. The law contains a provision, however, that if inheritances and gifts are given by donor or deceased subject to a so-called inclusion clause, they may become part of the community of property. In that case, however, the spouses are entitled to exclude inheritances and gifts from the community by notarial deed. All revenues of private property remain private. The new regime applies to all spouses who married after 1 January 2018 or to spouses who introduce the new regime after their marriage by way of notarial deed. Spouses who were married before 1 January 2018 can also introduce the new regime by way of notarial deed.

In the field of matrimonial property, freedom of contract is an important principle. Almost any arrangement the parties desire is possible, but all arrangements need to be made by notarial deed. It is also possible to change an existing regime during the marriage. When parties are married under separation of property and subsequently opt for some form of community of property regime (either the pre-2018 regime, the new regime or another arrangement), it is to some extent accepted that no gift tax or inheritance tax becomes due. This opens possibilities for tax planning between spouses. It can be of importance because only a limited exemption between spouses applies in inheritance tax, and only the general exemption of EUR2,690 applies between spouses regarding gifts made between them.

10.6 Probate

Probate proceedings do not apply under Dutch law because the inheritance passes to the heirs by way of universal succession.

10.7 EU Regulation 650/2012 on conflict of law regarding succession

As of 17 August 2015, the EU Succession Regulation (known as Brussels IV), which provides uniform rules on jurisdiction, applicable law, recognition and enforcement of decisions, applies to matters of succession. It also covers the acceptance and enforcement of authentic instruments in matters of succession and includes the creation of a European Certificate of Succession.

10.8 EU Regulation 2016/1103, 1104 on conflict of law regarding matrimonial property law and registered partnerships property law

On 29 January 2019, the council regulations (EU) 2016/1103 and 1104 of 24 June 2016, implementing enhanced cooperation in jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and property consequences of registered partnerships, entered into force in the Netherlands.

11. Estate tax treaties

11.1 Unilateral rules

When no tax treaty applies (see hereinafter), Dutch unilateral law for the avoidance of double taxation applies. Double taxation, however, is not always completely avoided.

As was previously mentioned, transfer duty (inheritance and gift tax based exclusively on the principle of situs) was abolished per 1 January 2010. Hereafter we describe the Dutch situs concept because it can still be relevant in applying Dutch unilateral law to avoid double taxation. The following assets are considered as situs assets:

- The value of a domestic enterprise or a part of a domestic enterprise (which is determined by a permanent establishment)
- Real estate and limited rights over real estate
- Economic ownership of real estate and economic ownership of limited rights over real estate
- Shares in a real estate company (where real estate makes up 50% of the assets and Dutch real estate makes up at least 30% of these assets) in the year of acquisition or the preceding year

11.2 Estate tax treaties

The Netherlands has concluded estate tax treaties with the following countries: Austria, Finland, Israel, Sweden, Switzerland, the United Kingdom and the United States. Furthermore, a tax arrangement applies between the Netherlands and the Caribbean islands of Curacao, Aruba and St. Maarten.

All treaties cover inheritance tax and transfer duty with respect to bequests.

The only treaties that cover gift tax are the treaties with the United Kingdom and Austria. The tax arrangement that applies between the Netherlands and Curacao, Aruba and St. Maarten also applies to gifts.

New Zealand

EY contacts:

Auckland

EY Limited
2 Takutai Square
Britomart
Auckland 1010
New Zealand

Aaron Quintal
aaron.quintal@nz.ey.com
+64 274 899 029

Wellington

EY Limited
100 Willis Street
Wellington 6011
New Zealand

Andrea Lai
andrea.lai@nz.ey.com
+64 212 295 368

Christchurch

EY Limited
Level 4
93 Cambridge Terrace
Christchurch 8013
New Zealand

Jason Macgregor
jason.macgregor@nz.ey.com
+64 274 899 504

1. Types of tax

1.1 Inheritance tax

New Zealand abolished estate duty with effect for persons dying on or after 17 December 1992 and currently has no form of estate duty, inheritance tax or capital transfer tax.

1.2 Gift tax

Gift duty has been abolished for gifts made on or after 1 October 2011.

1.3 Real estate transfer tax

New Zealand has no form of real estate transfer tax.

1.4 Endowment tax

New Zealand has no form of endowment tax.

1.5 Transfer duty

New Zealand has no form of transfer duty.

1.6 Net wealth tax

New Zealand has no net wealth tax.

1.7 Income tax

Income tax liabilities may arise in relation to assets that are gifted, are transferred to executors or administrators on an individual's death, are distributed to beneficiaries under a will or the intestacy rules, or are distributed by trustees. The general rule deems the assets to have been disposed of and acquired at market value, which may result in income tax liabilities in relation to assets within the tax base. Exclusions and rollover relief may apply in some circumstances when transferees are spouses, civil union or de facto partners or close relatives. Rollover relief generally applies in relation to assets that are transferred under relationship property agreements or court orders.

1.8 Goods and services tax

Goods and services tax (GST) is similar to a value-added tax (VAT) and is imposed on supplies of goods or services in New Zealand by persons who are formally GST registered or who are liable to be registered (because the level of their supplies of a GST-taxable nature in the current and preceding 11 months is NZD60,000 or more, or is expected to exceed that amount over the current and subsequent 11 months). GST may also be levied on goods imported into New Zealand, regardless of the GST status of the importer, and may apply by way of a reverse charge in relation to imported services in some circumstances.

GST is also imposed on supplies of digital and other remote services by nonresidents to New Zealand residents (other than GST-registered business customers). GST is generally imposed on low-value (NZD1,000 or less) goods imported by New Zealand consumers from offshore suppliers. These offshore suppliers are required to register for and return GST on these supplies. Offshore suppliers may have the option to also charge GST on their supplies of goods over NZD1,000 to consumers in New Zealand.

GST-exempt activities include supplies of financial services (although some may be zero-rated in certain circumstances, which enables suppliers to claim related GST input tax credits), supplies of certain fine metals and certain supplies of residential dwelling accommodation (other than in relation to commercial dwellings) and related land. Legislative changes in 2022 have also excluded cryptocurrency assets from GST.

2. Who is liable?

Income tax

New Zealand residents are generally subject to income tax on their worldwide income and may be taxed on attributed income in relation to interests in controlled foreign companies or foreign investment funds. Nonresidents are subject to income tax on New Zealand-sourced income only. Transitional resident individuals (please see below) may be exempt from New Zealand income tax for a four-year period (sometimes slightly longer) on foreign-sourced and attributed income other than foreign-sourced employment or services income.

New Zealand-sourced income may arise, for instance, when:
- A business is carried on wholly or partly in New Zealand.
- Contracts are made or wholly or partly performed in New Zealand.
- Employment income is earned in New Zealand.
- Income is derived by the owner of land in New Zealand.
- Income is derived from shares in or membership of New Zealand-resident companies.
- Income is derived from the disposal of depreciable or revenue account property situated in New Zealand.

The New Zealand income tax treatment of trusts (and the estates of deceased individuals) can be complex (please see further below). The treatment of income derived through trusts and of distributions (other than of current-year income) generally depends on whether any New Zealand residents have made any settlements on the trusts and whether there is New Zealand-sourced income.

Double-tax treaties may modify the above treatment for individuals (and other entities) to whom they apply.

GST

Any business entity or individual who supplies goods or services of a GST-taxable nature in New Zealand may choose to register for GST or may be liable to register if the value of their annual supplies is NZD60,000 or more (as outlined above).

Supplies made to associated persons for less than market value are generally treated as being made at open market value, with GST-registered suppliers liable to return GST at the appropriate fraction (currently 3/23rds for standard-rated supplies) of that value. Such deemed supplies may affect a supplier's liability to register for GST. Exceptions may apply if recipients are already GST-registered and would be able to claim input tax credits for any GST charged or if they would be applying items acquired for no consideration for the purpose of making GST-taxable supplies from the time of acquisition (which may be the case, for instance, in respect of assets distributed to beneficiaries by trusts or deceased estates).

On the death of a GST-registered individual, their executor or administrator is generally regarded as carrying on their GST-taxable activity as a specified agent. He or she must notify the Commissioner of Inland Revenue, make GST returns, and account for GST on relevant assets sold or supplied to beneficiaries.

Situation of property — income tax

The income tax legislation does not specify where property is situated for the purposes of the source rules. Common law principles may therefore apply so that land and tangible personal assets will generally be treated as situated according to their physical location, and company shares may be treated as situated where the share register is kept.

Situation of supplies — GST

Supplies of goods and services are treated as made in New Zealand for GST purposes if they are made by New Zealand residents (as defined for GST purposes). Supplies made by nonresidents are generally regarded as made outside New Zealand unless they relate to goods that are in New Zealand at the relevant time or services that are physically performed by someone in New Zealand.

Notwithstanding the general rule, nonresident suppliers and GST-registered recipients may generally agree to treat supplies as made in New Zealand, which may enable the supplier to register for GST and claim input tax credits for GST levied on importation of goods and other costs under the general rules. Nonresident suppliers can also register for GST and claim input tax credits if they meet certain other criteria.

Certain supplies of digital and other remote services by nonresidents to New Zealand residents are treated as made in New Zealand for GST purposes. Supplies of low-value distantly taxable goods by nonresidents are also generally treated as made in New Zealand for GST purposes.

2.1 Residency

Income tax

Individuals are considered resident in New Zealand for income tax purposes if they meet either of the following conditions:

- They have a permanent place of abode in New Zealand, regardless of whether they also have a permanent place of abode in another country
- They are physically present in New Zealand for more than 183 days in any 12-month period (the day-count test)

Individuals "stranded" in New Zealand, due to the COVID-19 pandemic, will not become tax resident in New Zealand under the day-count test provided they:

- Were practically restricted from leaving, either due to border controls, entry restrictions or the lack of available commercial flights
- Left New Zealand within a reasonable time after they are no longer practically restricted in traveling

Transitional residents

Individuals who first arrive and become resident in New Zealand after 1 April 2006, or who have been nonresident for at least 10 years before returning to New Zealand after that date, may choose to be treated as transitional residents. Transitional residents may be exempt from New Zealand income tax on certain foreign-sourced and attributed income for the first four years (possibly up to four and a half years in some circumstances) of their New Zealand residence. The transitional resident exemption does not apply to foreign-sourced employment or services income derived during the transitional residence period and is available only once.

Trusts (including estates of deceased individuals)

Trust income is subject to New Zealand income tax if it is sourced in New Zealand or if it is derived by beneficiaries who are New Zealand resident or by trustees where there is a settlor (generally any person who provides some benefit to the trust) who is New Zealand resident. Please see further below.

GST

The concept of residence may also be relevant for GST purposes, particularly in relation to whether supplies are regarded as made in New Zealand. The GST concept of residence is based on the income tax concept but is extended to also cover others to the extent they carry on any activities through related fixed or permanent places in New Zealand. Unincorporated bodies are treated as New Zealand resident for GST purposes if their center of administrative management is in New Zealand.

3. Rates

Income tax

The current rates of income tax applicable for resident, nonresident and transitional resident individuals are as follows:

Income bracket (NZD)	Year ended 31 March 2025 (2024-25 income year)
0-14,000	10.5%
14,001-15,600	12.82%
15,601-48,000	17.5%
48,001-53,500	21.64%
53,501-70,000	30%
70,001-78,100	30.99%
78,101-180,000	33%
180,001 and over	39%

Income bracket (NZD)	From 1 April 2025
0–15,600	10.5%
15,601–53,500	17.5%
53,501–78,100	30%
78,101–180,000	33%
180,001 and over	39%

Income derived through trusts (including the estates of deceased individuals) is taxable at adult beneficiaries' individual rates if treated as beneficiary income. Income treated as beneficiary income of minor beneficiaries or if treated as trustee income is generally taxed at 39% (aligned with the top personal tax rate) or at 33% where trustee income for the income year does not exceed NZD10,000 after deductible expenses. Income derived through trusts (including the estates of deceased individuals) is taxable at adult beneficiaries' individual rates if treated as beneficiary income, generally at 33% if treated as beneficiary income of minor beneficiaries or if treated as trustee income. From 1 April 2024, the trustee tax rate will align with the 39% top personal tax rate.

The income tax treatment of other distributions depends on the residence of the beneficiaries and how trusts are categorized for New Zealand income tax purposes at the time distributions are made. Trusts can be categorized as:

- Complying trusts, in which there are no taxes on such distributions.
- Foreign trusts, in which distributions are generally taxable at beneficiaries' individual rates. Distributions of realized capital gains and amounts settled on the trust as corpus may be distributed tax free but are generally subject to ordering rules.
- Noncomplying trusts, in which distributions are taxable at 45% except for distributions of amounts settled on the trust as corpus, which may be distributed tax free, but which are generally subject to ordering rules.

As outlined below, the New Zealand income tax treatment of trusts is complex.

GST

The standard rate of GST is 15%. Zero-rating applies to several types of supplies, particularly in relation to exports, international transportation, business-to-business supplies of financial services in certain circumstances and supplies that include land between GST-registered persons.

4. Exemptions and reliefs

Income tax

As outlined above, transitional residents may be exempt from income tax on foreign-sourced and attributed income for a period of four years (slightly longer in some circumstances) after they first become resident in New Zealand, although this exemption does not apply to foreign-sourced employment or services income derived during that period.

Charitable purpose trusts and organizations may be wholly exempt from income tax if they are registered under the Charities Act 2005 (or, in limited circumstances, if the Commissioner of Inland Revenue approves a nonresident body for these purposes). If they derive income directly or indirectly from business activities, rather than solely from passive investments or carrying out their charitable purposes, the exemption is unlikely to apply (or may be limited) where they carry on their charitable purposes outside New Zealand or if those with some control over the business can procure or influence certain personal benefits or advantages.

5. Filing procedures

Income tax

The standard New Zealand income tax year runs from 1 April to 31 March of the following calendar year, although taxpayers may seek the Commissioner of Inland Revenue's approval of nonstandard balance dates in certain circumstances (such as the date of death for continuing deceased estate returns). In some cases, deceased estates that derive no income can apply to the Commissioner of Inland Revenue to be excused from the obligation to file income tax returns.

Taxpayers with 31 March balance dates must generally file returns of income by the following 7 July unless they obtain a specific extension or are on a tax agency list, in which case filing extensions to the following 31 March may be available.

Inland Revenue issues individual taxpayers "automated assessments" of their taxable income. For individuals with only taxed-at-source income (such as employment income or investment income subject to resident withholding tax), Inland Revenue can issue the taxpayer a complete record of their tax obligation for the year ended 31 March and pay automated refunds or issue automated bills. Taxpayers who have nontaxed-at-source income need to amend their assessments to include this income. Taxpayers who are expected to have nontaxed-at-source income will need to file returns of income.

Taxpayers may need to make advance payments of provisional tax, generally in the fifth, ninth and 13th months following the beginning of their income year if their preceding year's residual income tax liability (after source deductions, withholding taxes, imputation and foreign tax credits) exceeded NZD5,000. Interest may be imposed in certain circumstances if provisional tax paid at each installment date is less than the amount required to be paid under the legislation. Any terminal tax balance is generally payable by 7 February of the year following the income tax year-end date, unless the taxpayer is on a tax agency list, in which case the time for paying terminal tax is extended by two months.

GST

GST return periods may cover six-month periods (this option is generally only available if annual GST taxable turnover does not exceed NZD500,000), two-month periods (this is the default option and is generally applicable for annual GST taxable turnover between NZD500,000 and NZD24 million) or a one-month period (required if annual GST taxable turnover exceeds NZD24 million or if taxpayers elect). A quarterly return period generally applies to nonresident suppliers of distantly taxable goods or digital and other remote services. Returns and payment of any net GST output tax liability (after deducting any relevant input tax credits on supplies acquired) must generally be filed by the 28th of the following month except for the periods ending 30 November (due by 15 January) and 31 March (due by 7 May).

6. Assessments and valuations

Income tax and GST

New Zealand has a formal self-assessment regime for income tax and GST purposes, with taxpayers effectively making their own assessments when taking tax positions by accepting/confirming or amending automated assessments of income tax or by filing (or not filing) relevant returns. Such self-assessments may be reviewed and amended by the Commissioner of Inland Revenue at any time, although amendments that increase income tax or GST liabilities must generally be made within a four-year period (from the end of the tax year in which an income tax return is filed or from the end of the GST return period in which a GST return is filed). No such time limit applies for income tax purposes if returns are fraudulent or willfully misleading or do not mention income of a particular nature or from a particular source. No such time limit applies for GST purposes if the Commissioner of Inland Revenue considers taxpayers have knowingly or fraudulently failed to disclose all material facts.

Interest and/or penalties may be imposed where returns are not filed on time or tax is not paid on time. In addition, shortfall penalties may be imposed and interest charged by the Commissioner of Inland Revenue in relation to errors that result in shortfalls of income tax or GST compared with the positions taken by taxpayers in their returns.

7. Trusts, foundations and private purpose funds

Trusts

Trusts are well established and recognized under New Zealand law and are commonly used for asset protection and succession planning purposes. The terms of discretionary trusts can provide considerable flexibility as to income and capital entitlements and distributions, while retaining significant influence or control by those who initiate or settle the trust. Assets held on trust for others are generally not regarded as part of the estate of a deceased that may be subject to claims under the Family Protection Act 1955 or the Law Reform (Testamentary Promises) Act 1949.

From 31 January 2021, under the Trusts Act 2019 (see further below), the maximum duration of express trusts is 125 years. Previously, the maximum length of time a trust (other than certain public or charitable trusts) could continue was limited to 80 years by the Perpetuities Act 1964.

The settlement of property on a trust is likely to have New Zealand income tax implications.

There may be income tax and GST implications if trust assets are distributed in-kind or are made available for use by beneficiaries or associated persons for less than market value.

In some circumstances, settlements of property to be held on trust or other property transfers or payments may be challenged and reversed by creditors if transferors subsequently become bankrupt or contested if the transfers are intended to defeat the rights of spouses/partners under the Property (Relationships) Act 1976.

The general law governing trusts in New Zealand is governed by the Trusts Act 2019. It imposes obligations on trustees, including the duty to invest prudently and to act impartiality and with unanimity, and provides significant transparency in the administration of trusts by requiring regular disclosures of trust information to beneficiaries.

Income tax treatment of trusts

The New Zealand income tax treatment of trusts can be complex, particularly if there are any cross-border elements, whether in terms of assets, settlors, trustees or beneficiaries. Unit trusts are generally treated as companies for income tax purposes (although trusts in a family context are not normally unit trusts).

In very general terms, New Zealand seeks to tax income derived through trusts (other than unit trusts) if it is sourced in New Zealand, if settlements on the trust have been made directly or indirectly by New Zealand tax residents, or if beneficiaries receiving or being credited with distributions are tax resident in New Zealand. The New Zealand income tax treatment of trusts is therefore not necessarily determined by the place where the trust was established or by the residence of the trustees.

Current year taxable income may be taxed in the trustees' hands (at 39% for any trust with taxable income in excess of NZD10,000, or 33% if the trust is below this level of income) or as beneficiary income (at adult beneficiaries' personal tax rates or, generally, at 33% in relation to minor beneficiaries under 16 years of age) if the income vests in or is paid to credited or applied for beneficiaries within prescribed time frames.

For income tax purposes, the concepts of settlor and settlement are defined broadly and may generally include any person who has transferred value or provided services (that are more than incidental to the operation of the trust) or financial assistance to the trust without receiving equivalent market value consideration in return. In some circumstances, for instance, beneficiaries with trust current account credit balances over NZD25,000 (subject to certain adjustments) may be regarded as settlors for New Zealand income tax purposes where market interest is not charged.

Categorization of trusts under the income tax rules as complying, foreign or noncomplying affects the income tax treatment of distributions (other than of current year taxable income) to beneficiaries, with the most advantageous treatment (no further income tax liability) applying to distributions (other than of current year income) from complying trusts. Distributions from foreign trusts may be tax free if they are of realized capital gains or of corpus, while the only tax-free distributions from noncomplying trusts are those of corpus. The concept of corpus is defined narrowly for New Zealand income tax purposes. Distributions from foreign and noncomplying trusts are generally subject to ordering rules and may result in double taxation without effective relief under double-tax treaties.

A comprehensive Inland Revenue Interpretation Statement on the income tax treatment of trusts was issued in 2018. A separate Interpretation Statement on the income tax treatment of distributions from foreign trusts was issued in 2019.

Disclosure requirements for trusts

Where foreign trusts have New Zealand-resident trustees but no New Zealand settlors, assets, income or beneficiaries, and would therefore not normally need to file New Zealand income tax returns, specific information about the trusts must be maintained in New Zealand and disclosed to the Commissioner of Inland Revenue.

From 1 April 2021, most other trusts also became subject to disclosure requirements. These are intended to assist the Commissioner of Inland Revenue in understanding the impact of the new 39% top income tax rate for individuals on the operation of trusts. Prior to 1 April 2021, the top income tax rate for individuals was 33%.

The disclosure requirements will generally apply to all trusts other than non-active trusts, foreign trusts (which are subject to their own disclosure requirements as noted above), charitable trusts or trusts that are Māori authorities.

Under the disclosure requirements, trustees must provide certain information to the Commissioner of Inland Revenue on an ongoing basis, alongside income tax returns. Information required includes:

- Financial accounting information
- Details of in-period settlements, including identifying information for each settlor
- Information on distributions made in the period, including identifying information for each receiving beneficiary
- Identifying information of those with the ability to alter the trust deed or appoint/remove trustees or beneficiaries
- Any other information requested by the Commissioner (such as information on any transfers to the trust by associated persons and information on loans to or by related parties)

"Identifying information" includes information such as the person's name, date of birth, Inland Revenue Department (IRD) number and jurisdiction of tax residence.

While this information is required from the 2021–22 income year, the Commissioner can make similar requests for information in relation to any trust returns prepared from the 2013–14 income year onwards.

Trusts that derive New Zealand-sourced assessable income for a tax year will also generally be required to prepare financial statements for the tax year.

Foundations

Trusts are commonly used to establish foundations for charitable or other nonprofit purposes. If such trusts are registered under the Charities Act 2005 or otherwise approved as donee organizations for income tax purposes, settlements or donations to them may provide income tax credits for resident individual donors or tax deductions for company donors (subject to their having sufficient taxable income). All entities with charitable purposes that qualify for registration under the Charities Act 2005 are required to be registered with the Department of Internal Affairs — Charities Services to qualify for or retain donee tax status.

The income of trusts or other bodies that are registered under the Charities Act 2005 is generally exempt from income tax unless it is derived directly or indirectly from business activities and is used primarily for purposes outside New Zealand, or persons who can control the business can also influence or determine benefits or advantages for themselves. The net income of other nonprofit organizations is generally taxable, although they may be entitled to a statutory deduction up to NZD1,000 in addition to deductions for their normal operating costs.

GST may apply to charitable and other nonprofit bodies, although there is generally no GST on unconditional gifts or on supplies of certain donated goods and services.

8. Grants

Regarding estate taxes, there are no specific rules regarding grants in New Zealand.

9. Life insurance

Life insurance proceeds are generally regarded as capital receipts that are not subject to income tax. However, rights (including contingent or discretionary rights) to benefit from foreign life insurance policies may constitute foreign investment fund (FIF) interests in relation to which New Zealand resident holders (other than transitional residents) may be taxable on attributed FIF income.

10. Civil law on succession

10.1 Estate planning

New Zealand does not have an inheritance or gift tax.

10.2 Succession

Choice of law to govern succession

New Zealand laws should be regarded as potentially applying in any situation where individuals are domiciled or resident in New Zealand at death or where they have assets situated in New Zealand. Property previously settled on trust by the deceased person is not subject to their will and remains governed by the terms of that trust.

New Zealand law provides rules for the succession to individuals' net assets if they die without effective wills that meet the requirements of the Wills Act 2007 (see 10.5 below). Otherwise, adult individuals are generally free to leave their assets by will, as they choose, although their estates may be subject to claims by certain affected relatives and others under specific statutory provisions, such as those contained in the:

- Property (Relationships) Act 1976 (claims by spouses, civil union or de facto partners)
- Family Protection Act 1955 (claims for maintenance or support by a limited class of relatives who consider the deceased may not have made adequate provision for them)
- Law Reform (Testamentary Promises) Act 1949 (claims by those who have performed services for the deceased based on promises to reward them by some testamentary provision)

Wills are generally revoked automatically by entry into marriage or civil union unless they are made specifically in contemplation of that event. Dissolutions of marriage or civil unions or formal separation orders generally revoke dispositions in a will to the former spouse or civil union partner.

Application of the New Zealand rules may be affected by the domicile of the deceased person at the date of making any will or at the date of death and on the location and movable or immovable nature of their assets.

In 2019 it was announced that the New Zealand Law Commission will review the law of succession. This review concluded in late 2021 and made a large number of recommendations (including bringing together the succession law currently dealt with in various acts into a new act). There has, as yet, been no detailed response from the government.

10.3 Forced heirship

New Zealand does not impose any forced heirship provisions, although statutory provisions allow relatives and others to make claims against estates in certain circumstances.

10.4 Matrimonial regimes and civil partnerships

Marriage or civil union does not, by itself, alter either spouse's or partner's ability to own or deal with property in his or her own right. However, the existence of a marriage, civil union or de facto partnership (between members of the same or different sex) may affect property rights in various ways. Examples include:

- Property becoming subject to claims by the other spouse, civil union or de facto partner, primarily under the Property (Relationships) Act 1976, to determine their share or to provide for them and any children. There is a general presumption of entitlement to an equal share in the family home, family chattels and other relationship property (based on a presumption of equal contributions of all types) unless (i) the relationship has been of short duration (generally less than three years' cohabitation) or (ii) there are extraordinary circumstances that would mean equal sharing was repugnant to justice. In some circumstances, the courts may order compensation where relationship property has previously been transferred by one spouse/civil union/de facto partner to trusts or controlled companies.

Claims may be brought under the Property (Relationships) Act 1976 after the death of one of the spouses, civil union or de facto partners, whether or not the deceased left a valid will. The parties to such relationships may generally contract out of the Act's provisions (but cannot do so with the intention of defeating creditors) and agree as to how property will be dealt with, but each party must have appropriate and separate independent legal advice and such agreements must meet certain formal criteria to be valid.

Income tax "rollover" concessions may apply where property interests are transferred under Property (Relationships) Act 1976 orders or agreements but may also effectively transfer latent income tax liabilities to transferees.

10.5 Intestacy

The Administration Act 1969 provides rules stipulating who inherits a deceased person's assets if the person dies intestate, or to the extent there is no valid will dealing with particular assets. Those intestacy rules provide primarily for set proportions and types of assets to pass to spouses, civil union or de facto partners, issue (children or other descendants), and surviving parents, but if there are no individuals in any of those categories, assets may pass to siblings, in default to grandparents, aunts and uncles. If there are no individuals in any of these categories, the assets pass to the Crown, which has discretion to apply them to other dependents or persons for whom the deceased might reasonably have been expected to make provision.

10.6 Probate or letters of administration

Executors of an individual's will generally must apply to the High Court Registry for probate to establish their authority to act, deal with the deceased's estate and distribute assets to the beneficiaries in accordance with the will. Probate may not be required for small estates that do not include any interests in land and certain other investments (for instance, money in bank accounts, shares, life insurance policies) that do not individually exceed NZD15,000 in value.

Applications for probate are generally made ex parte unless someone is contesting the will or there are possible issues as to the validity of the will.

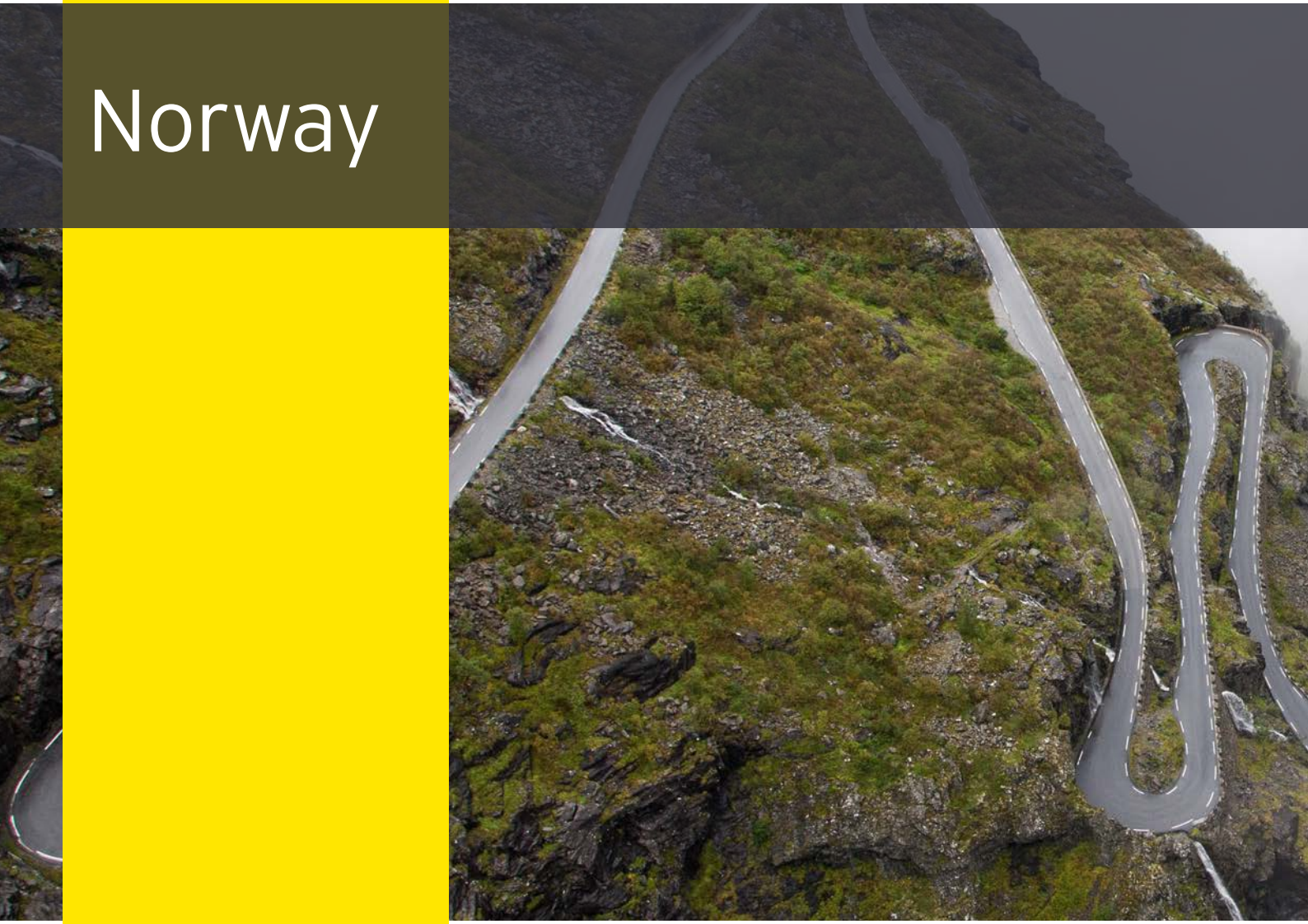
If there is no will, application should be made to the High Court to appoint an administrator, generally the surviving spouse or a close relative, to deal with the deceased's estate. In this situation, the grant of administration is called "Letters of Administration."

As the New Zealand courts have general jurisdiction over all property in New Zealand, it may be necessary to apply for probate or letters of administration if foreigners die owning New Zealand property. Probate or administration granted in certain foreign jurisdictions (such as those of Commonwealth countries) may be recognized and resealed in New Zealand for these purposes.

11. Estate tax treaties

New Zealand has not concluded any estate tax treaties with foreign states. The provisions of its double-tax treaties that deal with income tax may be relevant in relation to New Zealand property interests and income streams owned by deceased individuals and their estates.

Norway



EY contacts:

Oslo

EY
Stortorget 7
Postboks 1156 Sentrum
NO-0107 Oslo
Norway

Egil Jakobsen
egil.jakobsen@no.ey.com
+47 922 88 885

Karoline Sture Sørensen
karoline.sorensen@no.ey.com
+47 452 60 184

1. Types of tax

The Norwegian unified inheritance and gift tax was terminated on 1 January 2014. The reason for this termination was to relieve the strain on liquidity in cases of succession planning for individual owners of companies and transfer of family property.

1.1 Inheritance tax

The inheritance and gift tax was replaced with rules of continuity for tax purposes, meaning the heir or beneficiary is to assume the testator or benefactor's tax values and tax positions. The purpose of these rules is to secure latent profits occurring during the testator or benefactor's period of ownership. As the recipient is entitled and obligated to continue the tax values of the assets, such latent profits will become taxable when the recipient sells them.

The rules are neutral regarding transfer of privately operated businesses, registered shares, and non-registered shares and assets. Furthermore, the rules are given a general application for assets owned within and outside of business, allowing all tax positions to be transferred with continuity.

Exceptions regarding property

There is an important exception from the continuity rules with regard to transfers of residential property, holiday property and general farms and forestry, under the prerequisite that the testator or benefactor was in a position to sell such property tax-free. This makes the rule neutral for tax and inheritance tax purposes, as the seller is given the opportunity to sell the property without taxation, and transfer the proceeds without inheritance tax.

As such, when the exception applies, the recipient will be able to set the tax base of the property to the market value at the time of transfer. Future profits on the property will be taxable unless the recipient himself or herself fulfills the requirements for tax-free profits when selling.

Withdrawals of company assets for gift purposes

Withdrawals of company assets for gift purposes are subject to tax. In such cases, the recipient's tax base value shall be equal to the exit value applied when taxing the donor (market value).

However, there is an exception from such taxation when the recipient is entitled to succession by law and continues all or part of the business.

Transfer against partial compensation

Transfers against partial compensation (gift sale) may trigger a profit tax for the donor.

When business assets are transferred by a gift sale and the recipient is entitled to succession by law, the donor may choose whether the profits are to be taxed or whether the recipient shall continue the donor's tax positions. If the donor chooses profit taxation, the tax base of the assets for the recipient will be equal to the compensation. When assets transferred by a gift sale are not part of a business, profit taxation is mandatory.

Exit taxation

Norway has introduced material changes to the rules on exit taxation on shares and other financial assets, effective from the income year 2024/2025. The changes entail that exit taxation may be triggered on cross-border inheritance of shares and other financial assets.

1.2 Gift tax

As of 1 January 2014, Norway has terminated its gift tax. However, Norway has introduced exit taxation, which may be triggered on gifts of shares and other financial assets from a Norwegian tax resident taxpayer to a taxpayer residing outside of Norway.

1.3 Real estate transfer tax

This is not applicable in Norway.

1.4 Endowment tax

This is not applicable in Norway.

1.5 Transfer duty

Registration of transfer of title to property triggers a transfer duty of 2.5% of the fair market value (FMV) of the land and/or property being transferred. According to the general rules in the Norwegian Inheritance Act (*Arveloven*), heirs would normally be exempted from transfer duty of land and/or property. The exception for transfer duty covers only the FMV of the land and/or property of the ideal part the heirs are entitled to, according to the Norwegian Inheritance Act. Inheritance in advance and inheritance in testaments beyond the inheritance in law are not covered by the exception from transfer duty.

1.6 Net wealth tax

Inheritance and gifts will be added to the net wealth of the recipient. The basis for the net wealth tax is the FMV of the owner's assets, minus debt, as of 1 January in the year of tax assessment.

Net wealth is only taxed for the part that exceeds NOK1,760,000 (2025), whereby 0.525% is payable to the municipality and 0.475% to the state, in total 1%. For net wealth exceeding NOK20.7 million, the state tax increases to 0.575%, which gives a maximum wealth tax of 1.1%.

1.7 Exit taxation

The Norwegian rules on exit taxation on shares and other financial assets have been subject to material changes effective from the income year 2024/2025.

Norway imposes an exit tax on the transfer of shares by gift and inheritance from a Norwegian tax-resident taxpayer to a taxpayer residing outside of Norway for tax purposes. The exit tax charge is 37.84% on the capital gain income on the day before the gift is transferred with legal effect.

The exit tax payment is payable the year after the gift or inheritance had legal effect but may be deferred to payment of 1/12 a year for 12 years or 100% in year 12 against interest charge. The right to defer the payment is provided that the recipient still owns the asset(s).

2. Who is liable?

Inheritance and gift taxes were abolished effective as of 1 January 2014.

3. Rates

This is no longer applicable in Norway.

4. Exemptions and reliefs

This is no longer applicable in Norway.

5. Filing procedures

This is no longer applicable in Norway.

6. Assessments and valuations

This is no longer applicable in Norway.

7. Trusts, foundations and private purpose funds

A trust may not be set up under the Norwegian civil law. As Norwegian law does not recognize the concept of a trust, Norway has not ratified the Hague Convention on the Recognition of Trusts dated 20 October 1984. Hence, settlors, trustees and beneficiaries of a foreign trust are not recognized as such.

Trusts formed under the law of a foreign jurisdiction will be assimilated to the legal entity under Norwegian civil law that most closely resembles the provision of trust (e.g., family foundations, aggregation of property, nominee agreement). The trust may be treated as a company subject to controlled foreign corporation (CFC) taxation or be deemed as a transparent entity for tax purposes. This must be carefully reviewed on a concrete basis of facts and circumstances.

7.1 Gifts to a foreign trust

This is no longer applicable in Norway.

7.2 Inheritance to a foreign trust

This is no longer applicable in Norway.

7.3 Inheritance taxation at the time of the settlor's death

This is no longer applicable in Norway. Exit taxation may be imposed in certain circumstances.

8. Grants

This is no longer applicable in Norway.

9. Life insurance

This is no longer applicable in Norway.

10. Civil law on succession

10.1 Estate planning

Generational changes of companies should take place when the parents are still alive, because the rules on forced heirship are not applicable in such a situation. This allows for more flexibility.

If the grantor of shares in a non-listed company wishes to retain control of the company that he or she transfers to his or her children, the grantor may divide the shares into A and B shares. Class B shares with less voting rights or dividend rights can be transferred to his or her children.

10.2 Succession

When a person dies, the estate will be distributed to the heirs according to specific rules in the Norwegian Inheritance Act. The distribution of the inheritance depends on the deceased's family relations. According to the Act, the estate will be distributed as described in the table "Testamentary documents and intestacy" (see section 10.4.3). If the deceased has prepared a will, then the distribution of the estate is carried out according to the will, provided the testator has legal capacity.

10.3 Forced heirship

The Norwegian Inheritance Act provides a certain minimum inheritance for spouses and children. These regulations do not, however, apply to gifts.

Each year, the Norwegian Parliament determines a National Insurance Amount (G); it is currently (as of 1 May 2025) NOK130,160. The National Insurance Amount (G) is set on 1 May each year.

For all the children jointly, the minimum inheritance is two-thirds of the parent's total estate, but the minimum inheritance will never exceed 15 times the National Insurance Amount (NOK1,952,400) per child.

For spouses, the law provides a minimum inheritance of one-quarter of the deceased's entire estate. This may be decreased by will, but only if the surviving spouse has been notified of this prior to the decedent's death.

Under no circumstances may the spouse's inheritance be reduced below four times the National Insurance Amount (NOK520,640) if there are lineal descendants.

If there are no lineal descendants, the minimum inheritance is half of the spouse's estate, and in any case no less than six times the National Insurance Amount (NOK780,960).

10.3.1 Cohabitants

For cohabitants who have joint lineal descendants, the law provides a minimum inheritance of four times the National Insurance Amount (NOK520,640). If stated in a will, the right to inherit up to four times the National Insurance Amount supersedes the right of inheritance to both the deceased cohabitant's children and joint lineal descendants.

10.4 Matrimonial regimes and civil partnerships

10.4.1 The asset arrangement

Co-ownership (of marital property) and separate property settlement are factors that will have an effect when a married person dies. Co-ownership is the description of the asset arrangement that arises automatically by virtue of marriage. If the spouses have not entered into a separate property settlement, they automatically have a co-ownership. Persons other than spouses can also create a separate property settlement by the donor, making his or her gift expressly subject to a separate property settlement in favor of the beneficiary.

A surviving spouse has the right to assume ownership of the co-owned assets. If the spouses had a partial separate property settlement, the co-owned assets can be taken outright, while the separate property settlement assets are divided among the heirs of the deceased. This applies if no modification has been made either by the provisions of a marriage settlement or with consent of the heirs.

10.4.2 Undivided estate

The right to outright ownership of the undivided estate applies to spouses who are still married at the time of death of the first deceased. The surviving spouse has the right to inherit such assets free from claims of other heirs according to law.

For cohabitants who have joint lineal descendants, the law provides a right to retain undivided possession of some assets of the estate. The right by law is limited to the following assets: property and furniture in joint ownership, recreational property, and cars.

Undivided estate implies that the division of the inheritance is postponed and that the longest-living spouse/cohabitant virtually has full disposal over the assets of the deceased. If the longest-living spouse or cohabitant uses the right to retain undivided possession of the estate, the rights of the heirs will be reduced accordingly. They will not receive any inheritance until the undivided estate is distributed.

The right for both a spouse and a cohabitant to retain undivided possession of the estate is modified if the decedent has children from a previous relationship. In such cases, the estate must generally be divided after the first deceased, which had a child from a previous relationship, so that the children from the previous relationship receive their share of the inheritance. However, it is possible to obtain consent from the children from the previous rela-tionship to retain such undivided possession of the estate.

The right for the longest-living spouse/cohabitant to retain undivided possession of the estate can be limited by a will. However, a will reducing the extent of the right to the undivided estate is only valid if the longest-living spouse/cohabitant was aware of it before the earlier death of the spouse/cohabitant.

There are also other limitations on the right for the longest living spouse or cohabitant to inherit. The limitations are connected to:
- The asset arrangement of the spouses
- The surviving heirs of the deceased
- Certain circumstances applicable to the survivor

10.4.3 Testamentary documents and intestacy

A will is a legal document that regulates an individual's estate after a person's death. Norway will normally accept the formal validity of a will drawn up in the deceased's domicile, nationality or place of residence at the time of making the will or at death. Whether he or she has the personal legal capacity to make the dispositions in the will is generally governed by the law of the deceased's domicile.

The distribution of a deceased person's estate depends on whether he or she has made a will. If there is no will, the estate will be distributed to the relatives and the spouse/cohabitant according to the Norwegian Inheritance Act. The parties are, however, free to agree on a distribution that deviates from the Act, but the Act will apply if such an agreement cannot be reached. Where there are cross-border issues, the conflicts-of-law provisions will be relevant. The following table sets out the current rules when there is no will.

Spouses and children* survive the deceased	Spouse survives the deceased but no children or grandchildren*	No spouse or child survives the deceased
If the deceased leaves both a spouse and collective children, the estate must be divided between them. The spouse inherits one-quarter of the estate after the deceased, while the rest of the estate is divided equally between the children. The surviving spouse can usually choose to retain undivided possession of the estate. In this case, the children will inherit when the surviving spouse dies or if he or she marries again. This does not apply to illegitimate children.	The spouse inherits half of the estate if the nearest living relatives of the deceased are their parents or their offspring. The surviving spouse can usually choose to retain undivided possession of the estate. If the deceased does not have such relatives, the spouse inherits the whole estate.	The inheritance goes to the parents of the deceased. If both parents are dead, the inheritance goes to the siblings of the deceased or their offspring. If the deceased has no siblings, then the inheritance goes to their grandparents. If both grandparents are dead, the inheritance goes to the aunts and uncles of the deceased or to their cousins.

**Children of a predeceased child of the intestate parent take their parent's share.*

10.5 Probate

The administration of the deceased's estate may be private (the heirs themselves agree on who is to inherit what) or public. Private administration of the estate is the most common. However, the heirs may request that the public authorities carry out the administration anytime if they don't agree to finish the probate.

11. Estate tax treaties

These are no longer applicable in Norway.

Peru

EY contacts:

Lima

Av. Victor Andres Belaunde, 171
San Isidro
Lima
Peru

Roberto Cores
roberto.cores@pe.ey.com
+51 1 411 4468

Nora Orihuela
nora.orihuela@pe.ey.com
+51 1 411 4444

1. Types of tax

1.1 Inheritance

Peru's tax legislation does not establish an inheritance tax.

1.2 Gift or donation

Peru's tax legislation does not establish a gift or donation tax.

Donations are defined as voluntary acts by which an individual disposes part of its assets and transfer them to a third party free of payment. However, donations that have not been carried out by means of a public deed or any other reliable document will be considered as an unjustified increase in wealth and therefore be taxed under the progressive accumulative income tax rates (8%, 14%, 17%, 20%, 30%).

1.3 Real estate transfer tax

The transfer of the ownership of real estate is subject to the Alcabala tax, either if such transfer is in exchange of a contribution or is free of payment. It is important to point out that, among others, if the transfer is carried out due to the advance deposit of an inheritance or due to the death of an individual it will not be levied with the Alcabala tax.

1.4 Endowment tax

There is no endowment tax in Peru.

1.5 Transfer duty

There is no transfer duty tax in Peru.

1.6 Net wealth tax

There is no net wealth tax in Peru.

Nevertheless, Peruvian tax legislation establishes three types of taxes that levies property:

a) Real estate tax: This tax levies the value of urban and rustic real estate. The individual that owns real estate is obliged to pay the real estate tax. The collection and administration of this tax corresponds to the local government where the real estate is located.

b) Pleasure boats tax: This tax levies the value of pleasure boats. The individual that owns one or more pleasure boats is obliged to pay the pleasure boats tax. The collection and administration of this tax corresponds to the Peruvian Tax Authority.

c) Motor vehicle tax: This tax levies the property of motor vehicles (i.e., cars, station wagons, trucks and buses) since the following year of their registration in the Public Vehicle Registry, this tax is imposed only for three years. The individual that owns one or more motor vehicles is obliged to pay the motor vehicle tax. The collection and administration of this tax corresponds to the local government where the owner of the vehicle is domiciled.

2. Who is liable?

2.1 General

The type of tax that the individuals generate will determine who is the taxpayer, this is, who will be obliged to declare and pay the corresponding tax to the Peruvian Tax Authority or to the Local government. In general terms, the owner of the asset or assets will be the taxpayer.

2.2 Residency

According to the Peruvian Income Tax Law, among others, the following are considered as Peruvian residents:

a) Peruvian individuals who, under civil law, have their domicile in Peru. Peruvian individuals will lose their resident status in any of the following cases: (i) when they acquire residency in a foreign country and leave the country, in which case the loss of residency will be applicable since the individual left the country; or (ii) when they remain in a foreign country for more than 183 calendar days within any 12-month period. In which case, the loss of residence will be effective as from 1 January of the following year to which the 183-day term was met. The law establishes that Peruvians will recover residency once they return to the country unless they return temporarily by staying in Peru 183 calendar days or less in any 12-month period.

b) Individuals carrying out abroad representative functions or official duties, if they have been appointed by the Peruvian central government.

c) Foreign individuals who stay in the country for more than 183 calendar days within any 12-month period. Note that, any change of status occurring during a year becomes effective as from 1 January of the following year to which the 183-day term was met.

d) Marital partnership, if one of the spouses is domicile in Peru.

e) Successions, when the deceased, on the date of his/her death, had the status of domiciled in the country.

3. Rates

3.1 Real estate transfer tax

Alcabala tax: The transfer of the ownership of real estate is subject to a 3% tax rate over the transfer value, which cannot be lower than the self-determination value (autovaluo), that is the value assessed by the local government in which the property is located. This value is adjusted in accordance with specific parameters set forth by law and duly communicated to the owner of the property.

The first 10 Tax Units, approximately USD14,500,[1] are not subject to tax. The buyer or acquirer of the real estate is obliged to pay the corresponding tax.

3.2 Net wealth tax

Real estate tax: The tax base for determining the real estate tax is composed of the total value of the real estates that the individual owns. The owner of the real estates is obliged to pay the corresponding tax.

The tax is calculated according to the following progressive accumulative rates:

Stages	Rates
Up to 15 Tax Units	0.2%
More than 15 and up to 60 Tax Units	0.6%
More than 60 Tax Units	1.0%

Pleasure boat tax: The tax rate is 5% and will apply over the original value of the acquisition or importation of the boat, which will not be lower than the reference value published annually by the Ministry of Economy, such value will include an adjustment for antiquity.

Motor vehicle tax: The tax rate is 1% and will apply over the value of the vehicle, which will not be lower than the reference value published annually by the Ministry of Economy. Such value will include an adjustment for antiquity.

In any case, the payable amount will not be less than 1.5% of the Tax Unit in force in the taxable year in which the tax is due.

4. Exemptions and reliefs

4.1 Donation

In general, donations are not deductible from income tax.

However, if an individual carries out a donation, the amount donated may be deducted as an expense if such donation is done in favor of national public entities and nonprofit organizations that have one or more of the following purposes: charity, social assistance, education, cultural, scientific, artistic, literary, sports or health. Also, prior to the donation, these entities need to be qualified by the Peruvian Tax Authority as "entities authorized to receive donations."

[1] For the fiscal year 2025, one Tax Unit equals PEN5,150.

It is important to point out that the amount donated can only be deducted if the individual has received labor income. The deduction cannot exceed the 10% of the sum of their net labor income and their foreign source income.

5. Filing procedures

5.1 Real estate transfer tax

Alcabala tax: For this tax, the buyer or acquirer is not obliged to submit a tax return to the Peruvian Tax Authority, the tax is calculated directly by the local government where the real estate is located, since it qualifies as a municipal tax and can be paid by the buyer or acquirer until the last business day of the following month in which the transfer was carried out.

5.2 Net wealth tax

Real estate tax: The owner of the real estate is obliged to submit a tax return in any of the following cases:

a) Annually, on the last business day of February, unless the local government establishes an extension.

b) When the ownership of real estate is transferred. In this case, the tax return must be submitted by the last business day of the month following of the transfer.

c) When the Peruvian Tax Authority establishes the obligation.

The resulting tax can be paid in cash, until the last business day of February of each year or in installments, up to four quarterly installments.

Pleasure boat tax: The owner of the pleasure boat is obliged to pay annually the resulting tax to the Peruvian Tax Authority.

Motor vehicle tax: The owners of motor vehicles are obliged to submit a tax return in any of the following cases:

a) Annually, on the last business day of February, unless the local government establishes an extension.

b) When the ownership of the motor vehicle is transferred. In this case, the tax return must be submitted by the last business day of the month following of the transfer.

c) When the Peruvian Tax Authority establishes the obligation.

The resulting tax can be paid in cash, until the last business day of February of each year or in installments, up to four quarterly installments.

6. Assessments and valuations

For Peruvian tax purposes, in the case of donations, the tax basis of the assets received by the donee will be zero, unless the acquisition cost of the assets paid by the transferor can be fully supported with the corresponding documentation.

7. Trusts, foundations and private purpose funds

7.1 In general

A trust serves as a legal means for the allocation of economic benefits derived from the ownership of assets transferred to the trust. Having as final goal not only the preservation of the assets transferred to the trust but also to increase the net worth, considering the purposes for which it was established. In the past years, the use of trusts for estate and succession planning purposes has increased considerably, since families and/or individuals want to consolidate, protect, and preserve the family wealth for future generations.

Trusts incorporated under Peruvian legislation are subject to Peruvian law regardless of the residence of the settlor. For Peruvian tax purposes, trusts incorporated in Peru are considered as look-through entities (transparent investment vehicles). Depending on the type of trust, the settlor or beneficiaries of the trust will be considered as the taxpayers of the income generated by the trust when it is effectively distributed. The tax rate will depend on the type of income generated.

7.2 Types of trusts in Peru

In Peru there are different type of trusts, such as "banking trust," "securitization trust," "warranty trust," "administration trust," "testamentary trust," among others. Each of these has its own rules regarding the tax consequences of its establishment.

The "testamentary trust" is a specific type of trust regulated under the Peruvian Banking Law in which the settlor can detail the wishes that should be fulfilled by the trustee once the settlor dies, if the wishes are not contrary to the inheritance regulations. In that regard, the Peruvian Income Tax Law indicates that the "testamentary trusts" are understood to be established from the opening of the succession, and the profits, income or capital gains generated by the assets or rights transferred to these will be attributed to the trustees who qualify as beneficiaries.

Also, the Peruvian Banking Law details that in any of the abovementioned trusts, the forced heirs of the settlor may demand the return of the trust assets by the deceased as a free trust, in the part that has damaged their inheritance. The fiduciary company has the power to select, among the trust assets, those to be returned. However, the settlor may transfer to the trust the assets that are part of the inheritance of any of the minor or incapacitated heirs, for their benefit and while the minority or disability subsists. The fiduciary company, in any case, should attend to the maintenance of the minor or the incapacitated person with the income or the profits of the trust.

8. Grants

This is not applicable in Peru.

9. Life insurance

Pursuant to the Peruvian Income Tax Law, as a general rule, the income generated by the difference between the updated value of the premiums or installments paid by the insured and the sums that the insurers give to them at the termination of a life insurance contract; and, the benefits or participations in a life insurance contract that the insured obtain, will qualify for income tax. However, the referred law establishes a specific and permanent tax exception for this type of income (the exception does not have a due date). In that regard, the income received due to death, that originates in an insurance contract, will not be subject to income tax. Upon the death of the insured, the compensation that is obtained by the beneficiaries of a life insurance policy will not qualify as a taxable income.

10. Civil law on succession

In Peru the rules that regulate succession are mandatory and the individuals are not allowed to enter into agreements against such regulations when it is not specifically authorized to do so.

According to the Peruvian Civil Code, when a person dies, his/her assets, rights and obligations are transmitted to his/her successors. Not only does a succession start at the time of the person's death, but also when the death is presumed based on the absence or disappearance of an individual. It is important to mention that the Peruvian Civil Code establishes that the heir is only liable for the debts of the inheritance as far as the total value of the assets inherited.

10.1 Testamentary succession

The testament is a legal instrument by which an individual decides what he/she wants to do with his/her assets at the time of death. The testament is a unilateral, formal and solemn act, where an individual expresses his/her will regarding how he/she will dispose the assets after his/her death.

In case of this type of succession, testamentary provisions must be the direct expression of the will of the testator, who cannot grant power to another person to testify, nor leave his/her provisions at the discretion of a third party. There are different types of testaments; however, the information or regulations that every testament should have are: the written form, the date of its granting, the name of the testator and his/her signature. The specific formalities of each type of testament cannot be applied to the other types of testaments.

In the testamentary succession, the will must contain the distribution of the deceased's assets for each forced heir. According to the Peruvian Civil Code, the force heirs are daughters, sons and descendants, parents and direct ascendants and spouse or life partner. When the testator has forced heirs, there is a part of the inheritance from which he/she cannot freely dispose. In case the testator has descendants or spouse, he/she will be allowed to freely dispose a third of the total assets through his/her testament; if the testator only has parents or ascendants, he/she will be allowed to freely dispose 50% of the total assets. The portion applicable to the spouse or life partner is independent to the applicable rights generated by the dissolution of the marriage or partnership.

10.2 Intestate succession

The cases of instate succession are the following:

a) An individual dies without leaving a testament or the one he/she has left is declared void, it has expired, or the disinheritance has been revoked.
b) The testament does not indicate an heir.

c) The mandatory heir died prior the testator, renounces to the inheritance or loses it by indignity or disinheritance and has no descendants.
d) The voluntary heir or legatee dies before the testator, renounces to the inheritance or loses it by indignity without having a substitute heir.
e) The testator who does not have mandatory or voluntary heirs established in a will.

Pursuant to the Peruvian Civil Code, there are six orders of successors in the case instated succession:
a) Daughters, sons and other descenders
b) Parents and other ascendants
c) Spouse or life partner
d) Siblings
e) Uncles and aunts
f) Nephew and nieces

10.3 Undivided successions

As mentioned before, Peru's tax legislation does not impose an inheritance tax, this is, the assets, rights and obligations transfer to the successors will not qualify as taxable income. However, once the person has passed away, until the declaration of heirs, if it is an intestate succession; or until the testament is registered in the Peruvian Public Registry, if it is a testamentary succession, the undivided succession should obtain a tax ID number to comply with the tax obligations generated by the assets inherited. Once the declaration of heirs is carried out or the testament is registered in the Peruvian Public Registry, each heir should declare and pay the taxes corresponding to the part of the inheritance received.

11. Estate tax treaties

11.1 Unilateral rules

Peru does not have specific rules on tax credits or transfer of properties abroad.

11.2 Double-taxation treaties

Peru has not signed any gift or inheritance tax treaties.

Philippines

EY contact:

Makati City

SGV & Co.
6760 Ayala Avenue
Makati City
Philippines
1226

Private Client Services Country Leader

Jules E. Riego
jules.e.riego@ph.ey.com
Office: +63 2 8894 8117
Mobile: +63 917 894 8117

1. Types of tax

1.1 Estate tax and tax on gifts during lifetime

There used to be both inheritance tax (tax on the right of heirs to inherit) and estate tax (tax on the net estate of the decedent) in the Philippines.

Now, the Philippines only imposes estate tax, which applies on the fair market value (FMV) of a decedent's estate at the time of the person's death. In determining the value of the gross estate, the FMV of all properties, real or personal, tangible or intangible, is included regardless of their location. With respect to nonresident aliens, only properties located in the Philippines are subject to estate tax.

The following should be included as part of the gross estate:

- **Decedent's interest.** This refers to the value of the decedent's right or expectation (short of naked title) on a property.
- **Transfers in contemplation of death.** The value of any disposition, whether by trust or otherwise, that is intended to take place only after the decedent's death (*donation mortis causa*).
- **Revocable transfers.** The value of any transferred property where the decedent retained his or her power to amend, alter or revoke the transfer during his or her lifetime. This is regardless of whether he or she actually exercised that power or not.
- **Transfers with retention of rights of ownership.** This refers to the value of any transfer where the decedent retained the power to enjoy the fruits or income of the asset during his or her lifetime. Since this means that the transfer performed by the decedent is not absolute and transfer of all rights of ownership will only take place upon his or her death, the value of the asset transferred should still be considered part of his or her gross estate.
- **Property passing under the general power of appointment.** This refers to the value of any property for which the decedent was given the power to appoint any person, including himself or herself, to be the recipient or beneficiary. Since the decedent enjoys the right to dispose of the property any way he or she wants to as if he or she is the owner, the value of such property should be included in his or her gross estate.

- **Proceeds of life insurance.** The value of insurance proceeds from insurance policies taken out by the decedent upon his or her own life should be included in the gross estate of the decedent when the designation of the beneficiary is revocable, or when the decedent has made himself or herself, or his or her estate, the executor or administrator as the beneficiary, regardless of whether the designation is irrevocable or not.
- **Transfers for insufficient consideration.** This refers to the excess of the FMV at the time of death over the value of the consideration received by the decedent for any disposition by sale that he or she made during his or her lifetime that is less than a bona fide sale for an adequate and full consideration in money or money's worth.
- **Property owned in common with surviving spouse.** The value of any property owned in common with the surviving spouse should be included in the decedent's gross estate. However, the value of the equal share of the surviving spouse should be deducted from the estate after all conjugal expenses have been deducted from the gross estate.
- The gross estate is entitled to claim the following deductible expenses to determine the net estate:
- **Claims against the estate.** Third-party creditor claims, such as loans obtained by the decedent, must be evidenced by a notarized agreement.
- **Claims against insolvent persons.** Basically, bad debts or uncollectible receivables of the decedent.
- **Mortgage indebtedness, taxes and loss.** Unpaid mortgages, unpaid taxes before the death of decedent and any losses from fire, theft or embezzlement incurred by the estate that are not covered by insurance.
- **Vanishing deduction.** A certain percentage of the value of an asset may be deducted from the gross estate if it was acquired by inheritance or by gratuitous title by the decedent at a time proximate to the decedent's death. For example, the value of property acquired by the decedent by inheritance at least four years but not more than five years before his or her death may be deducted from his or her gross estate to the extent of 20% thereof. If such property was inherited by the decedent within one year before his or her death, then 100% of the value of such asset is deductible from his or her gross estate.
- **Transfer for public use.** Any bequests, legacies or devisees to the Philippine government or any of its political subdivisions for public use.
- **Family home.** The actual FMV of the decedent's family home not exceeding PHP10 million. The value in excess of PHP10 million is subject to estate tax.
- **Standard deduction.** The amount of PHP5 million is deductible without question.

For a nonresident alien decedent, the estate located in the Philippines is entitled to a standard deduction of PHP500,000. His or her estate is also entitled to the following deductions: a) amount of claims against the estate; b) amount of claims against insolvent persons and mortgage indebtedness in proportion to the value that such amount bears to the value of his or her entire gross estate wherever situated; and c) the amount or value of the asset he or she donated for public use.

1.2 Gift tax

Donations made during the lifetime of the donor (*donation inter vivos*) are subject to donor's tax. Donor's tax is imposed on total net gifts made in any calendar year. Donor's tax is 6% of the FMV (at the time of the donation) of the asset or cash being donated.

Donor's tax is also imposed on any transfer of any property (other than real property classified as a capital asset) for less than adequate and full consideration in money or money's worth unless the sale, transfer or exchange can be shown to have been done in the ordinary course of business, that is a bona fide transaction, done at arm's length and free of donative intent.

1.3 Real estate transfer tax

There is a real estate transfer tax in the Philippines that is imposed on all transfers of real estate property, including transfer by way of inheritance. This is referred to as local transfer tax (LTT) and is imposed by the local government unit having jurisdiction over the location of the property and not by the national government. In the case of cities, the maximum rate of LTT is 0.75% of the FMV, zonal value or consideration received, whichever is higher of the three. On the other hand, municipalities cannot impose LTT that is higher than 0.50% of the FMV, zonal value or consideration received, whichever is higher.

In case of transfer by way of inheritance, the LTT should be paid within 60 days from the time of death of the decedent.

1.4 Endowment tax

There is no endowment tax in the Philippines.

1.5 Transfer duty

There is no transfer duty in case of transfer by way of inheritance. Documentary stamp tax (DST) is applicable, however, on any transfer or disposition of real property or shares of stock in a domestic company during the lifetime of the person. The DST rate on transfer by way of sale of shares is PHP1.50 for every PHP200, or fraction thereof, of the total par value of the shares. The DST on transfers of real property, whether by sale or donation, is PHP15 for every PHP1,000, or fraction thereof, of the zonal value, FMV or consideration received, whichever is higher.

1.6 Net wealth tax

There is no net wealth tax in the Philippines.

2. Who is liable?

The estate tax should be paid by the executor or administrator of the estate or any person in actual or constructive possession of the property. The estate tax is a lien on the property of the decedent and must be paid before any distribution can be made to the heirs. Heirs are secondarily liable for estate tax to the extent of his or her distributive share in the estate.

2.1 Residency

The estate of any decedent, citizen or not, who, at the time of their death, is a resident of the Philippines, shall be subject to estate tax in the Philippines, regardless of the location of the property, tangible or intangible, real or personal property.

Nonresident aliens are subject to estate tax only on properties situated in the Philippines, whether they are real or personal, tangible or intangible. However, intangible personal properties of such non-resident alien will be excluded from the gross estate if the foreign country (of which the decedent is a resident at the time of his or her death) did not impose a transfer tax of any character, in respect of intangible personal property of citizens of the Philippines not residing in that foreign country (reciprocity rule).

Residence is generally determined by presence of intent to return (*animus revertendi*). It usually refers to a permanent home where one intends to return whenever away for business or pleasure.

2.2 Domicile

Domicile is similar to residence as far as Philippine estate tax is concerned.

3. Rates

Estate tax

The net estate of every decedent, whether resident or nonresident, shall be subject to estate tax at a uniform rate of 6% based on the value of such net estate.

Donor's tax or gift tax

Donor's tax of 6% is imposed based on total net gifts in excess of PHP250,000 made during the calendar year, regardless of whether the gift is made to a relative or a stranger.

4. Exemptions and reliefs

The following transmissions are not subject to estate tax:

- The merger of usufruct in the owner of the naked title
- The transmission or delivery of the inheritance or legacy by the fiduciary heir or legatee to the fideicommissary
- The transmission from the first heir, legatee or donee in favor of another beneficiary, in accordance with the desire of the predecessor
- All bequests, devises, legacies or transfers to social welfare, cultural and charitable institutions, no part of the net income of which inures to the benefit of any individual; provided, however, that no more than 30% of the said bequests, devises, legacies or transfers shall be used by such institutions for administration purposes

Donor's tax

The following donations of a Philippine resident or nonresident alien during his or her lifetime are exempt from donor's tax:

- Gifts made to or for the use of the national government or any entity created by any of its agencies that is not conducted for profit, or to any political subdivision of the said government
- Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, accredited nongovernment organization, trust or philanthropic organization, or research institution or organization, provided, however, that no more than 30% of said gifts shall be used by such donee for administration purposes

5. Filing procedures

Estate tax

Before an estate tax return can be filed, the executor, administrator or heirs must apply for a new tax identification number (TIN) for the estate using Bureau of Internal Revenue (BIR) Form 1901. The TIN of the decedent will be canceled.

An estate tax return (BIR Form 1801) is required to be filed in all cases where there are assets to be transferred subject to estate tax and regardless of the gross value of the estate, when the estate is composed of real properties, shares of stock or motor vehicles, or any property where a BIR tax clearance is required as a condition precedent for the transfer of ownership.

Estate tax returns showing a gross value exceeding PHP5 million shall be supported with a statement duly certified by a certified public accountant containing the following:

- Itemized assets of the decedent with their corresponding gross values at the time of his or her death, or, in the case of a nonresident and not a citizen of the Philippines, of that part of his or her gross estate situated in the Philippines
- Itemized deductions from gross estate allowed under the law
- The amount of tax due whether paid or still due and outstanding

Estate tax returns are required to be filed within one year from the decedent's death. The Commissioner shall have authority to grant, in meritorious cases, a reasonable extension not exceeding 30 days for filing the return.

If there is estate tax payable, the estate tax must be filed and paid with the authorized agent bank of the Revenue District Office that has jurisdiction over the place of the decedent's residence at the time of his or her death or, if there is no legal residence in the Philippines, with the Office of the Commissioner.

The estate tax must be paid at the time the return is filed by the executor, administrator or the heirs. However, if the Commissioner finds that the payment on the due date of the estate tax or of any part thereof would impose undue hardship upon the estate or any of the heirs, he or she may extend the time for payment of such tax or any part thereof not to exceed five years, in case the estate is settled through the courts, or two years in case the estate is settled extra-judicially. In such case, the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment, as provided in Section 203 of the National Internal Revenue Code, shall be suspended for the period of any such extension.

A certified copy of the schedule of partition and the order of the court approving the same shall be furnished to the Commissioner within 30 days after the promulgation of such order.

If an extension is granted, the Commissioner may require the executor, administrator or beneficiary, as the case may be, to furnish a bond in such amount, not exceeding double the amount of the tax and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the said tax in accordance with the terms of the extension.

The new law also states that if the available cash of the estate is insufficient to settle the estate tax due, payment may be done by installment for a period of two years from the statutory date for its payment without civil penalty and interest.

6. Assessments and valuations

The estate shall be appraised at its FMV as of the time of death. However, the appraised value of real property as of the time of death shall be whichever is the higher of:

- The FMV as determined by the Commissioner
  Or
- The FMV as shown in the schedule of values fixed by the provincial and city assessors

With respect to usufruct, the value of the right of usufruct, use or habitation, as well as that of annuity, there shall be taken into account the probable life of the beneficiary in accordance with the latest Basic Standard Mortality Table approved by the Secretary of Finance, upon recommendation of the Insurance Commissioner.

The book value based on the latest audited financial statements of the company is presumed to be the FMV of the shares of stock of a domestic company for estate tax purposes.

For shares that are listed and traded in the stock exchange, the market price nearest to the date of death is considered the FMV of the listed shares.

7. Trusts, foundations and private purpose funds

Only irrevocable trusts, in whatever name, shape or form, can be used to reduce the estate and, thus, lower estate tax. However, as transfers to an irrevocable trust are considered full transfer of all rights and ownership over the assets that are placed in the trust, they are considered as a donation *inter vivos* (donation during the lifetime of the giver) and hence are subject to donor's tax at 6%. For the trust to be considered irrevocable, the trustor must not retain any right to amend, alter or revoke the trust. The trustor must also not retain the power to possess or enjoy the property or any of its fruits or income.

Also, assets that are considered part of the legitime (minimum entitlement from the estate of decedent) of compulsory or forced heirs cannot be the subject of any condition. Hence, they cannot be transferred to an irrevocable trust that is subject to certain conditions. In other words, only assets other than those pertaining to the legitime of forced heirs may be transferred to an irrevocable trust, subject to certain conditions, such as a scheduled and periodic release of the funds, or upon the beneficiary reaching a certain age.

Life insurance trust

Since the proceeds of life insurance (taken upon the life of the decedent when the irrevocable beneficiary is other than the decedent or his or her estate) are not considered part of the gross estate, such proceeds may be placed in a trust and be the subject of certain conditions, such as a gradual and periodic release of funds, to ensure that an improvident child-beneficiary, for example, will not be able to squander the entire amount.

Generation-skipping trust

Because the merger of usufruct in the owner of the naked title is not subject to estate tax (as noted in Section 4), a trust may be formed whereby the naked title to the asset of the trust can be placed in the name of a grandchild but the usufruct or right to use the same can be given to the immediate child of the decedent. Hence, when the child of the decedent dies, the usufruct and the title on the asset will merge in the grandchild, which is exempt from estate tax. Thus, one generation of estate tax is saved.

However, this can only be done on properties that are not part of the legitime of forced heirs, as legitime cannot be the subject of any condition, burden or substitution.

Foundations

Formation of foundations is useful in terms of reducing the taxable estate and retaining valuable assets (e.g., expensive paintings) within the family line.

Donations to foundations created for charitable purposes are exempt from donor's tax, and such donations also become tax-deductible expenses of the donor if the foundation is an accredited donee institution.

8. Grants

From an estate tax perspective, grants forming part of the estate of the decedent at the time of his or her death are considered subject to estate tax. Grants given by the decedent during his or her lifetime are subject to donor's tax unless they will qualify as one of the donations exempt from donor's tax as enumerated above.

9. Life insurance

Premiums paid, as well as proceeds of the life insurance, do not form part of the gross estate for estate tax purposes, provided:

- It is taken out of the life of the decedent.
- The beneficiary is other than the decedent, his or her estate, executor or administrator.
- The designation of the beneficiary is irrevocable.

If any of these conditions are not met, then the proceeds of the life insurance should be included in the gross estate and will become subject to estate tax.

10. Civil law on succession

10.1 Estate planning

As briefly mentioned above, there are a number of options that can be considered from an estate planning perspective such as:

- Donations or gifts
- Life insurance
- Trusts
- Foundations
- Straight sale
- Tax-free exchange

The first four bullets have already been discussed above. Hence, we will focus on straight sale and tax-free exchange as set out below.

Sale of asset

This mode of transfer during the lifetime of the decedent is the simplest way to reduce an estate.

A sale of unlisted shares by a parent to his or her children, for example, will entail capital gains tax (CGT) of only 15% based on net gain. There will also be stamp duty of PHP1.50 for every PHP200, or fraction thereof, of the par value of the domestic shares sold.

On the other hand, a sale of shares listed in the Philippine Stock Exchange is subject only to stock transaction tax of 0.60% of the gross selling price or gross value in money of the shares of stock sold.

A sale of real estate properties that are considered capital assets is subject only to 6% CGT based on presumed gain, that is, based on the selling price, FMV or zonal value of the BIR, whichever is higher. There will also be stamp duty of 1.5% based on selling price, FMV or zonal value of the BIR, whichever is higher.

Hence, the tax rate applicable to sale as a mode of transfer is the same as donor's tax and estate tax except there is no stamp duty when the transfer is by way of inheritance.

It goes without saying that a transfer by way of sale requires that there be a bona fide sale and requires the capacity of the transferee (buyer) to buy.

It should also be noted that transfer by way of sale of real estate properties that are classified as ordinary assets entail higher taxes, namely, rate of 20% to 35% income tax for individual sellers depending on the amount of taxable income realized, plus 12% value-added tax and 1.5% stamp duty. A real property is considered an ordinary asset for Philippine tax purposes when it is being used in business, or when it is being held out for sale or for lease.

Tax-free exchange

This is more popularly known as a "property-for-shares swap" for transferring real properties that normally appreciate in value over time.

Philippine tax laws require that the transferor (parent) gain control, that is, 51% of the transferee corporation (NewCo) so that the property-for-shares swap will qualify as a tax-free exchange. The CGT on the exchange is deferred until the shares are sold by the parent. The transfer of the real property is also exempt from stamp duty. Stamp duty will only apply to the new issuance of shares at the rate of PHP2 for every PHP200, or fraction thereof, of the par value of the shares subscribed.

The next step would be for the parent to sell his or her NewCo shares to his or her child. The sale of shares to the child is subject to 15% CGT on net gain (book value or selling price of the shares, whichever is higher, less historical cost of the land). The sale of shares is also subject to stamp duty of PHP1.50 for every PHP200, or fraction thereof, of the par value of the shares sold.

Please note that the BIR issued a clarificatory revenue regulation stating that in cases of sale of unlisted common shares, the same must be valued based on the latest audited financial prior to the date of sale, hence, implying that the incremental increase in value of the underlying real property should no longer be included in the computation of the book value of the common shares in case of sale of shares.

The transferor in a tax-free exchange has, of course, the option of retaining ownership of the shares until he or she dies.

10.2 Succession

The Philippines has, by law, institutionalized the concept of compulsory heirs and their legitime. Thus, regardless of the wishes and desires of a testator as provided in his or her will, the legitime of compulsory heirs must be respected. Legitime cannot be the subject of any burden, condition or substitution.

10.3 Forced heirship

Legitime, or automatic inheritance of compulsory heirs, must be respected at all times. Compulsory heirs can rescind or collate inofficious dispositions of the decedent/testator if they impair their legitime. Hence, legitime is the minimum amount of inheritance that compulsory heirs are entitled to. Once the legitime of each compulsory heir is satisfied, everything else is considered part of the "free portion," which the testator can freely dispose of or bequeath to any person, natural or juridical, and which may be subject to conditions imposed by the testator.

If a citizen dies without a last will and testament, intestate succession rules will govern the distribution of the decedent's entire estate and there will be no "free portion" to speak of.

Compulsory heirs are legitimate and illegitimate children, a spouse and, in some instances, parents or ascendants.

10.4 Matrimonial regimes and civil partnerships

If the marriage was solemnized after August 1988, the default property regime is the Absolute Community of Property (ACP) where everything brought into the marriage and acquired during the marriage is presumed co-owned by the parties. Thus, if a husband and wife do not execute any prenuptial agreement, their property regime will be the ACP.

Marriages solemnized before August 1988 are governed by the Conjugal Partnership of Gains (CPG) regime, unless the parties agreed by way of a prenuptial agreement that they will be governed by another property regime, such as complete separation of property. Under the CPG regime, everything brought in as the exclusive properties of the husband or the wife remains as his or her own, respectively. However, everything acquired during the marriage is presumed co-owned by the parties.

Common law relationships (living together without the benefit of marriage), when there is no legal impediment to marry each other, is deemed governed by the rules on co-ownership.

10.5 Intestacy

Intestate succession rules will govern when a citizen dies without a will.

When a citizen dies with a will, the will has to be probated in court where the extrinsic (formal) and intrinsic (substantive; for example, were the legitimes respected?) validity of the will and testament will be determined.

For aliens, resident or not, the formal validity of wills is determined by the rules of the jurisdiction in which the will was executed. Generally, the rules of succession of the foreign country of his or her nationality will determine the hereditary rights of his or her heirs. The rules of his or her country of domicile or residence may also come into play. In some cases, Philippine rules on succession will apply if his or her country of nationality or residence, as the case may be, adheres to the *renvoi* doctrine (referring back to the decedent's country of residence at the time of death).

10.6 Probate

As long as a will exists, a probate proceeding has to take place during which the validity or invalidity of the will is determined. If the entire will is invalidated for violating formal or substantive rules in making a will, the intestate succession will be determined in the same proceeding.

11. Estate tax treaties

11.1 Unilateral rules

A foreign tax credit for estate taxes paid in a foreign jurisdiction may be claimed in the Philippines with respect to assets situated or subject to estate tax in the Philippines. The foreign tax credit may be claimed in accordance with the following formula:

One other foreign country is involved:

$$\text{Tax credit} = \frac{\text{Net estate in foreign country x Philippine estate tax}}{\text{Entire net estate}}$$

Or

The actual estate paid in foreign country, whichever is lower

Two or more foreign countries are involved:

Limit 1: Per foreign country

$$\frac{\text{Net estate per foreign country x Philippine estate tax}}{\text{Entire net estate}}$$

Limit 2: By aggregate

$$\frac{\text{Net estate all foreign countries x Philippine estate tax}}{\text{Entire net estate}}$$

Or

The actual amount of foreign estate tax paid, whichever is lower

11.2 Double-taxation treaties

The Philippines does not have any estate tax treaties with any other country to date.

11.3 Estate tax amnesty

The Philippines has an ongoing estate tax amnesty by virtue of Republic Act (R.A.) No. 11213, which lasted until 14 June 2021. It was extended by R.A. No. 11956 up to June 14, 2025. The estate tax amnesty amount is 6% based on the FMV at the time of death. It covers all estate tax due from decedents who died on or before 31 May 2022.

Poland

1. Types of tax

1.1 Inheritance tax

Inheritance and gift tax is levied on the acquisition of goods located in Poland and property rights executed in Poland via donation or inheritance. Tax is also levied when goods are located outside Poland and property rights are executed outside Poland when the decedent dies or the gift agreement concludes that the beneficiary has Polish nationality or has a place of residence in Poland.

Individuals who receive inheritances or gifts are liable to pay tax on the value of the goods or property rights received. If a notary is involved in the transaction, he or she is obliged to withhold the tax due.

EY contact:

Warsaw

EY Doradztwo Podatkowe
Krupa sp. k.
Rondo ONZ 1
00-124 Warsaw
Poland

Marek Jarocki
marek.jarocki@pl.ey.com
+48 22 557 7943

Individuals who receive inheritances or gifts from spouses, dependents (also adopted children, stepchildren and grandchildren), ascendants (i.e., parents, stepparents and grandparents), brothers and sisters are exempt from tax, if declared with the respective tax office within six months. In the case of monetary donations, receipt of money has to be additionally documented via bank transfer confirmation or postal order. Donations of money do not have to be declared if made via notarial act.

Taxpayers are classified into the following three categories, according to the proximity of the relationship between the deceased/donor and the beneficiary/donee:

- Category 1: spouses, dependents (also adopted children, stepchildren and grandchildren), sons- and daughters-in-law, ascendants (i.e., parents, stepparents, parents-in-law and grandparents), brothers and sisters
- Category 2: nieces and nephews, uncles and aunts, spouses of brothers and sisters, siblings of the spouse, and spouses of other dependents
- Category 3: others

Taxable base

Inheritance and gift tax is levied on the net market value of the property received, after deduction of debts and other burdens. The valuation is made on the date when the tax liability arises, e.g., the conclusion of a gift agreement or the acceptance of inheritance. If the declared value of the property does not correspond to its market value, the tax authorities may assess the value.

The value of taxable property received from the same person over a five-year period is aggregated and treated as a single acquisition. In the case of periodic payments such as annuities and pensions, the value of the payments is established during the course of the payment if the value cannot be established when the tax liability arises. Payments made during a definite period or in installments are attained by multiplying the annual value of the payment by the number of years or installments.

Other payments, including payments made during an indefinite period of time, are valued by multiplying the annual value of the payment by 10.

If a usufruct is inherited or donated, the annual value of the usufruct is deemed to be 4% of the value of goods subject to usufruct.

The catalog of items exempt from inheritance and gift taxes includes:
- Inherited furniture, clothing, etc., under some conditions
- Inherited collections of ancient art, monuments, etc., under some conditions
- Property inherited or received from spouses, dependents (also adopted children, stepchildren and grandchildren), ascendants (i.e., parents, stepparents and grandparents), brothers and sisters if reported to the tax authorities and in case of cash payments if documented by the bank transfer

Gifts and inheritances of property located in Poland are exempt if neither party is a Polish national nor a person domiciled in Poland.

Inheritance of a natural person's enterprise is also exempt from inheritance and gift taxes if certain conditions are met — please refer to section 10.2 below.

Double-taxation relief

Poland has concluded treaties for the avoidance of double taxation on inheritance tax with a number of countries. The table below shows a few examples.

Country	Date of signature	Date of entry into force
Austria	24 November 1926	22 May 1928
Czech Republic	23 April 1925	14 December 1925
Hungary	12 May 1928	21 August 1931
Slovak Republic	23 April 1925	14 December 1925

1.2 Gift tax

See section 4 on donations tax.

1.3 Real estate transfer tax

In general, a supply of immovable property, including land made within the scope of economic activity, is subject to value-added tax (VAT). However, if neither party is subject to VAT on that transaction, the supply falls within the scope of Tax on Civil Law Transactions (TCLT). Additionally, TCLT liability also arises on sales and exchanges of immovable property that are exempt from VAT.

TCLT applies to immovable property located in Poland. Transactions involving immovable property located abroad are subject to tax only if the following conditions are jointly met: the transaction is performed in Poland and the acquirer has a place of abode in Poland or its seat is in Poland. The sale of agricultural farms is exempt from TCLT.

The taxable base is the market value of the property. TCLT on the transfer of immovable property is levied at the rate of 2%; however, in case the buyer acquires at least six residential units constituting separate properties in one or more buildings constructed on a single plot of land, which are subject to value-added tax, or shares in such units, or has already acquired at least five such units or shares therein, the tax rate applicable to the sale agreement concluded with the same buyer for the sixth and each subsequent such unit in the building or buildings, or share in such a unit, is levied at 6%.

1.4 Endowment tax

There is no endowment tax in Poland.

1.5 Transfer duty

The transfer duty in Poland is governed by TCLT.

TCLT is levied, inter alia, on the following transactions: the sale of immovable property; the sale of certain movable property; and the sale of property rights, loan agreements and mortgage agreements. If at least one party to the transaction is liable to pay VAT or is exempt from VAT on that particular transaction (with the exception of, inter alia, immovable property transfers where a special regulation applies), such transaction is excluded from the scope of TCLT.

The taxable base and tax rate depend on the type of the transaction (see below).

TCLT is imposed on the establishment of a company or a partnership. The establishment of capital of partnerships is subject to taxation if a partnership has a registered office in Poland. In the case of companies, such operation is taxable if a company has a registered office or an effective place of management in Poland. The concept of the effective place of management is prevailing, i.e., if the registered office is located in Poland, TCLT is levied only if the company's effective place of management is outside the European Union (EU).

The scope of TCLT also covers the transfer of an effective place of management or the registered office of companies that had their former effective place of management or the registered office in a non-EU country. The rate of TCLT on the establishment of a company is 0.5%. The taxable base is the share capital value. The taxable base is reduced by the sum of the loans granted to a company by its shareholder (stockholder) and any additional payments to a company that were subject to TCLT and that were subsequently converted to increase the company's share capital.

Exempt from the scope of TCLT are:
- A merger of companies
- A change of legal form of a company
- A contribution of a branch or majority of shares in a company (or additional shares when the company receiving the shares is already a majority shareholder) to another company in exchange for its shares
- Increase of the capital of a company, which was previously decreased due to losses incurred by the company, provided that the increase of the capital takes place within four years since its decrease

A share premium is not subject to the TCLT. However, if the share premium is subsequently converted into the share capital, the TCLT is due. If, for example, 10 of 100 is paid for a share capital of a company and 90 is treated as a share premium, the TCLT is levied on 10 only. If the remaining 90 is later incorporated in the share capital, the 90 will be subject to TCLT.

A partnership agreement/articles of association and any amendments thereto are also subject to TCLT if they are exempt from VAT.

1.6 Net wealth tax

There is no net wealth tax in Poland.

2. Who is liable?

2.1 Residency

Under domestic law measures, individuals who have their center of personal or economic interests (a center of vital interests) in Poland or stay in Poland for a period exceeding 183 days in a given tax year are generally considered Polish tax residents. Individuals who do not have their center of personal or economic interests in Poland and stay in Poland for a period shorter than 183 days in a given tax year are taxed in Poland only on Polish source income. These rules relate to personal income tax. There are separate rules for donations and inheritance tax – citizenship and place of permanent abode criteria determine the tax obligation in that area.

2.2 Domicile

Except for the residency rules listed above, no specific domestic rules under Polish tax law are applicable for tax purposes.

3. Rates

The rates of the inheritance and gift tax are progressive and depend on which category the taxpayer falls under and the value of the property received, as follows:

Category 1

Taxable income over tax-free amount (PLN)	Tax on lower amount (PLN)	Rate on excess (percentage)
0–11,833	0	3
11,833–23,665	355.00	5
23,665 and over	946.60	7

Category 2

Taxable income over tax-free amount (PLN)	Tax on lower amount (PLN)	Rate on excess (percentage)
0–11,833	0	7
11,833–23,665	828.40	9
23,665 and over	1,893.30	12

Category 3

Taxable income over tax-free amount (PLN)	Tax on lower amount (PLN)	Rate on excess (percentage)
0–11,833	0	12
11,833–23,665	1,420.00	16
23,665 and over	3,313.20	20

However, when the tax obligation arises after the taxpayer claimed the gift during a tax audit, tax proceedings, fiscal control or control activities and the tax due on that acquisition has not been paid previously, the acquisition is taxed at a rate of 20%.

4. Exemptions and reliefs

Personal reliefs

Acquiring wealth within the closest family may be exempt upon meeting certain formal conditions, such as informing the tax office within a six-month period and through a wire transfer form in case of cash.

In addition, the following reliefs apply to inheritances and gifts received by persons in each category (family ties proximity):
- PLN36,120 for Category 1
- PLN27,090 for Category 2
- PLN5,733 for Category 3

In addition to the above reliefs, when a donee receives cash in Category 1 and it is used to purchase a dwelling up to a limit of PLN11,095 from one donor or PLN 22,189 from multiple donors, it is exempt from inheritance and gift tax.

Inheritances and gifts from those in Category 1 and inheritances from those in Categories 2 and 3 of a dwelling up to a value that corresponds to surface space of 110 square meters of the dwelling, subject to certain conditions, are also exempt from inheritance and gift tax. The list of exempt income is extensive and includes, inter alia, several types of social distributions (e.g., funeral allowances, social benefits), indemnities received in respect of property and personal insurance, scholarships, and game and lottery winnings (in some cases up to a certain limit).

Donations

Donations for purposes relating to religion and donations to organizations carrying on activities in the field of public tasks are deductible up to 6% of the taxpayer's annual income. However, the deduction is not allowed if the donation is made to an individual, legal entity or an entity without legal personality that engages in certain activities (e.g., production of electronic equipment, fuel, tobacco or alcohol). Donations made to certain churches carrying on charity and public aid activities may be deductible without any limits.

Additionally, one-off gifts of up to PLN200 per donee are also exempt from inheritance and gift tax.

A donee's receipt of a monetary donation from tax group I is exempt from tax if the donation does not exceed PLN2,000 per month (whether from one donor or from many donors in total) and is paid into the donee's savings account that is maintained on the basis of the agreement referred to in Act on state aid in saving for housing purposes.

5. Filing procedures

In the case of most inheritance and gift taxes, taxpayers are obliged to file a tax return within a month from the day the tax obligation arises.

Based on the filed returns, the tax office is obliged to assess the tax due, and the taxpayer is obliged to pay the tax within 14 days.

In the case of some gifts, income tax rules may be applicable. The tax year in Poland is the calendar year. By 30 April following the close of the tax year, taxpayers must file tax returns and pay any difference between total tax payable and advance payments. Married persons who are Polish tax residents may be taxed jointly if certain conditions are met. Under additional conditions, joint filing may be available to Polish tax nonresidents who are tax resident elsewhere in the EU, the European Economic Area or Switzerland.

Income tax may generally be withheld directly by employers on behalf of employees and remitted to the tax office within 20 days after the end of the month in which the income is paid or made available to the employee. Self-employed individuals and expatriates on temporary assignments to Poland who are paid from abroad must generally make advance tax payments each month and must file annual tax reconciliations stating their income received and the advance tax paid by 30 April of the following year.

The annual tax return must be filed with the regional tax office with jurisdiction over the taxpayer's place of residence. The tax return must state all sources of income and must show income tax due. If a taxpayer keeps accounting records, financial statements must be attached to the annual tax return. If a taxpayer does not submit the annual tax return, the tax office establishes the amount of tax due by the assessment.

Failure to file a return and late payment of tax may result in penalty interest and fines.

Tax returns may be filed electronically, either by the taxpayer or his or her proxy. In the latter case, the taxpayer has to provide the tax office with the power of attorney for a proxy to file electronically on behalf of the taxpayer.

6. Assessments and valuations

Assessment

As a rule, self-assessment is the default system in Poland. The tax authorities may question the taxpayer's assessment during the formal proceeding.

Appeals against assessment

Appeals against assessment are generally not applicable in the case of individual income tax. The deadline for appealing against the decision of the tax authorities issued during the formal proceedings against the taxpayer's assessment is usually 14 days from the receipt of the decision.

7. Trusts, foundations and private purpose funds

Income from investment funds is calculated as the difference between income obtained and cost incurred to acquire the investment fund units. The income from investment funds is not aggregated with income from other sources and thus is not subject to tax at the progressive rates.

8. Grants

There are no specific rules in Poland regarding grants.

9. Life insurance

Pension income comprises old-age pensions and disability pensions, including their increases and supplementary payments, except for family and nursing supplementary payments and certain supplementary payments for orphans.

Pensions are treated as income from dependent services and are taxable when paid or when they are put at the taxpayer's disposal. The general progressive rates apply.

Pensions derived from certain voluntary private pension plans, however, are exempt (contributions to these plans are not deductible for income tax purposes).

10. Civil law on succession

10.1 Estate planning

In general, real estate income may be taxed at a flat rate of 19%. Real estate income is the difference between the sales price and respective expenses, which includes the purchase price.

If the sale of real estate occurs more than five years after the end of the calendar year in which the real estate was acquired or built (six months for other property, counted from the end of the month in which the property was acquired), the proceeds of the sale are not subject to tax.

In general, rental income from immovable property is taxable under a lump-sum tax. The lump-sum tax is levied at the rate of 8.5% and 12.5%. The taxable base is the gross income. If immovable property is made available free of charge, taxable income is deemed to be the amount of rent that would have been due had the property been rented for consideration.

Real estate rental income may be taxable as self-employment income or may be treated as a separate source of income.

10.2 Sole proprietorship

On 25 November 2018, an Act on the Succession Management of a natural person's enterprise and other facilitations related to succession of enterprises came into force. It regulates the principles of temporary management of the enterprise after the entrepreneur's death and tax exemptions in this regard.

Each heir is exempt from inheritance and gift tax when taking over a sole proprietorship of the inherited enterprise, if the following conditions are jointly met:
- The acquisition of the enterprise must be reported to the tax office.
- The inherited enterprise should be run for at least two years.

The latest amendments to the Act on the Succession Management of a natural person's enterprise and other facilitations related to succession of enterprises implemented the following regulations:
- Licenses issued on the name of the late entrepreneur may be transferred to heir more easily.
- A temporary representative may be constituted to enable the functioning of the enterprise in case of entrepreneur's spouse death (in case the spouse was conducting business activity jointly with the entrepreneur).

10.3 Succession

Succession may be handled via the rules for donations and inheritance tax or, in cases involving the sale of a business, capital gains tax may be levied. In the latter case, as a rule, 19% of income tax would be due, although certain tax savings are available.

10.4 Forced heirship

Under Polish inheritance law, specified legal heirs, including dependent, surviving spouse and parents, are entitled to a legal portion of an estate if certain conditions are met.

10.5 Matrimonial regulations and civil partnerships

A community property regulation applies in Poland to married couples. Under the regulation, property acquired before the marriage or during the marriage for proceeds received as an equivalent for the property acquired before the marriage remains separate. Couples may amend or opt out of the regulation via a notarized agreement.

10.6 Intestacy

General inheritance tax law is applicable.

10.7 Probate

General inheritance tax law is applicable.

11. Estate tax treaties

11.1 Unilateral rules

Unilaterally, Poland grants ordinary foreign tax credits. The domestic tax law provides that if income derived from sources located outside Poland is subject to income tax abroad, such income is aggregated with the income derived from sources located in Poland. In such a case, the amount corresponding to the income tax paid in the foreign country is deducted from the tax assessed on the total income. The tax credit is granted on a per-country limitation basis, i.e., the deduction may not exceed that part of the tax as assessed prior to the deduction, which is proportional to the income derived in the foreign country.

Under Poland's signed tax treaties, double taxation may be avoided through tax credit or exemption with progression. For a list of tax treaties in force, see below.

11.2 Double-taxation treaties

Poland has entered into general double-taxation treaties for avoidance of double taxation (mainly income tax) with a number of countries and territories. Some of them are listed below. Most of the treaties follow the Organisation for Economic Co-operation and Development Model Convention.

Albania	Georgia	Mexico	Spain
Algeria	Germany	Moldova	Sri Lanka
Armenia	Greece	Mongolia	Sweden
Australia	Hungary	Montenegro	Switzerland
Austria	Iceland	Morocco	Syria
Azerbaijan	India	Netherlands	Taiwan
Bangladesh	Indonesia	New Zealand	Tajikistan
Belarus	Iran	Nigeria	Thailand
Belgium	Ireland	North Macedonia	Tunisia
Bosnia and Herzegovina	Isle of Man	Norway	Türkiye
Bulgaria	Israel	Pakistan	Ukraine
Canada	Italy	Philippines	Former USSR (Russia)
Chile	Japan	Portugal	United Arab Emirates
China Mainland	Jordan	Qatar	United Kingdom
Croatia	Kazakhstan	Romania	United States
Cyprus	Kuwait	Russian Federation	Uruguay
Czech Republic	Kyrgyzstan	Saudi Arabia	Uzbekistan
Denmark	Latvia	Singapore	Vietnam
Egypt	Lebanon	Slovak Republic	Former Yugoslavia (Serbia)
Ethiopia	Lithuania	Slovenia	Zambia
Estonia	Luxembourg	South Africa	Zimbabwe
Finland	Malaysia	South Korea	
France	Malta		

Portugal

EY contacts:

Lisbon

EY
Av. da República n.º 90, 3.º
1649-024
Lisboa

Porto

Av. da Boavista n.º 36, 3.º
4050-112
Porto
Portugal

Pedro Paiva
pedro.paiva@pt.ey.com
+351 936 615 043

Filipa Bastos
filipa.bastos@pt.ey.com
+351 937 010 617

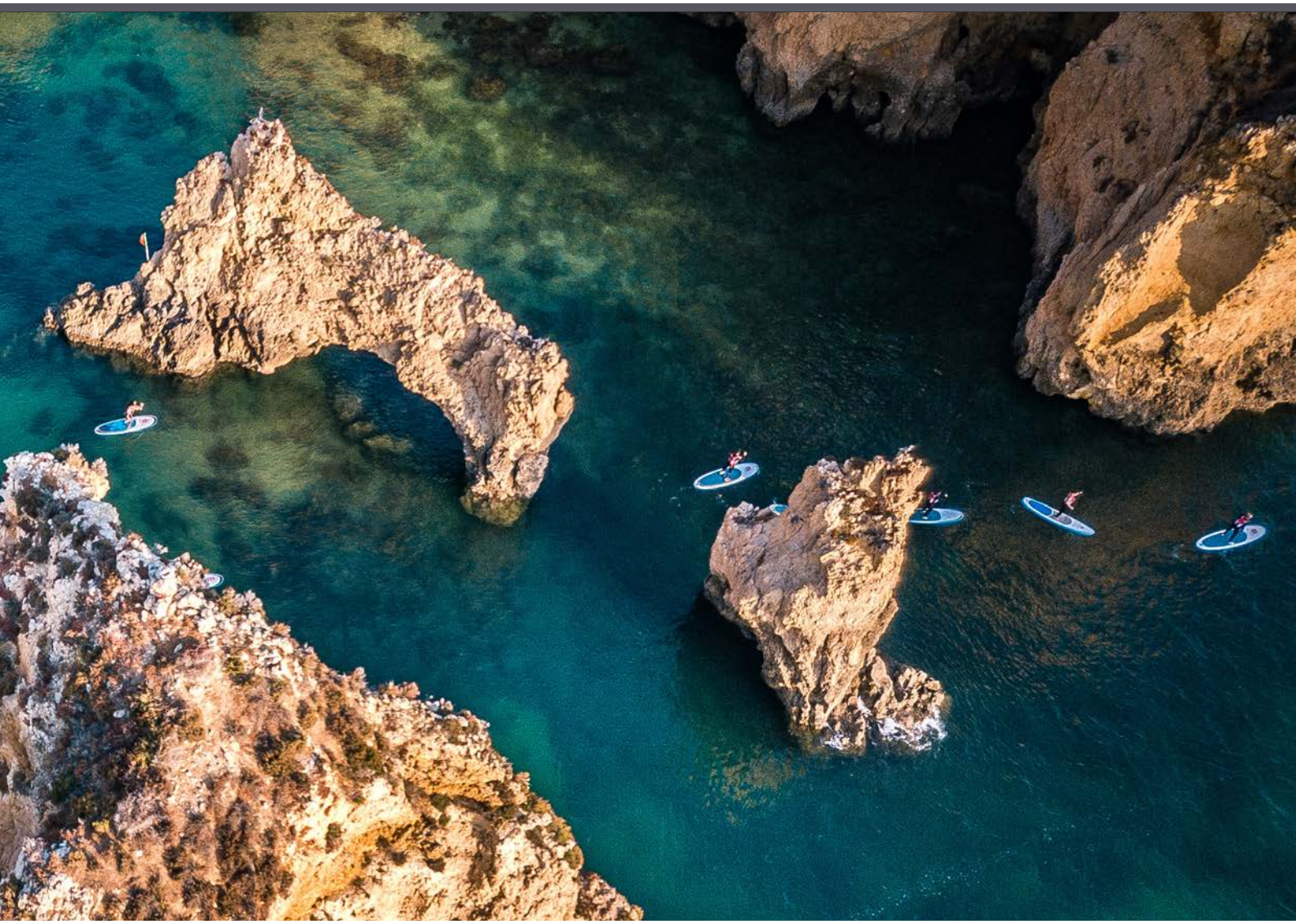
1. Types of tax

1.1 Inheritance tax

Historically, inheritance and gifts were subject to inheritance and gift tax (*Imposto sobre Sucessões e Doações*). However, as a result of a tax reform, effective from 1 January 2004, the inheritance and gift tax was revoked, and inheritance and gifts became subject to the stamp tax (ST) – *Imposto do Selo*. The ST Code was adjusted to accommodate the rules previously applicable under the inheritance and gift tax as well as to introduce several changes to the taxation of gratuitous transfers (including inheritance and gifts).

With regard to incidence, the ST Code expressly indicates which goods and rights are not subject to tax, eliminating taxation on personal or domestic goods, as well as the assumption of their existence.

Gratuitous transfers in favor of taxpayers subject to corporate income tax (CIT) (*Imposto sobre o Rendimento das Pessoas Colectivas*) also became excluded from ST. Only individuals became subject to ST.



With regard to territoriality, ST continues to apply to transfers of goods and assets located in Portuguese territory.

The rules to determine the taxable amount of a gratuitous transfer are simplified and aligned with other taxes, e.g., personal income tax (PIT) (*Imposto sobre o Rendimento das Pessoas Singulares*) and property tax (*Imposto Municipal sobre Imóveis and Imposto Municipal sobre Transmissões Onerosas de Imóveis*).

The Portuguese tax authorities assess the tax due on a gratuitous transfer.

An important factor in the simplification of the ST Code is the change of the tax basis on transmissions by death, which ceased to be the hereditary share of each heir and became the total estate before transfers. Thus, the tax assessment no longer requires the prior sharing process of the inheritance.

The tax rate applicable on gratuitous transfers suffered a significant reduction to 10%. An additional 0.8% tax rate applies on gifts of real estate (immovable property).

1.2 CIT

Gratuitous transfers in favor of taxpayers subject to CIT are excluded from ST; instead, they are subject to CIT.

A gratuitous transfer would represent a positive net worth variation, taxable at the applicable standard tax rate (currently 21%) plus any additional municipal and state surcharges that are applicable.

For the purposes of determining the taxable income for CIT purposes, the acquisition cost of a gratuitous transfer is the fair market value (FMV), which shall not be lower than the value that would result from the rules foreseen in the ST Code.

1.3 Real estate transfer tax (RETT)

RETT is levied on the transfer for consideration (i.e., onerous transfers) of ownership rights or parts thereof on real estate (immovable property) situated in the Portuguese territory, regardless of how such transfer is carried out. The rates for RETT vary depending on the nature of the property, as follows:

Real estate transfer tax	Rate
Rural real estate	5.0%
Other urban properties and other acquisitions for consideration	6.5%
The acquirer is a tax resident in a "prohibited list" jurisdiction or is controlled by entities resident for tax purposes (except individuals)	10.0%

The Portuguese State Budget Law for 2021 extended the application of the 10% increased rate to the acquisition of real estate assets by entities that are controlled (i.e., whose share capital or voting rights are mainly held, directly or indirectly, by entities resident in a jurisdiction included on the approved prohibited list) by the Portuguese government. Also, in these cases, no RETT reductions or exemptions may apply.

Residential properties are subject to RETT at rates up to 7.5%, levied on the value of the agreement or the cadastral value of real estate, whichever is higher. RETT exemptions are available for young people up to 35 years old (if certain conditions are met).

Additionally, the acquisition of the share capital of a public limited company (*Sociedade Anónima*) or of quotas in a limited liability company (*Sociedade por Quotas*) and equity in a limited partnership (*sociedade em comandita simples*) or a general partnership (*Sociedade em Nome Coletivo*) is also subject to RETT if:

- The value of the assets of the company whose shares are transferred derives, directly or indirectly, from more than 50% of real estate assets located in Portugal, considering the property tax value of such assets or its book value, if higher.
- The real estate assets are not allocated to an agricultural, industrial or commercial activity or are allocated to a real estate trading activity.
- As a result of the acquisition, any of the shareholders become the owner of at least 75% of the company's share capital or if the number of shareholders is reduced to two marital or non-marital partners.

In the event of the dissolution or other forms of transfer for consideration of a company under which all or some of its real estate assets are transferred to the shareholders that have already been taxed under the rules above, RETT should only apply to the new transfer on the difference between the value of the assets transferred and the amount over which RETT was previously paid.

The Portuguese State Budget Law for 2023 introduced a new provision establishing that the value of the crypto assets given in exchange for the real estate assets shall be taken into account for ascertaining the value of the transaction or contract transferring the real estate subject to RETT.

1.4 Registration fee

Transfers of ownership of real estate or real estate rights are subject to a registration fee of relatively low amount.

1.5 Net wealth tax

Portugal does not impose a net wealth tax.

1.6 Municipal tax and additional municipal tax

Municipal tax is levied by each municipality on the cadastral value of real estate located in Portuguese territory, at the following tax rates:

Municipal tax	Rate
Rural real estate	0.8%
Urban real estate	From 0.3% up to 0.45%
Urban properties owned by entities resident in tax havens or controlled by entities resident for tax purposes in a "prohibited list" jurisdiction	7.5%

Certain exemptions/reductions are, however, available in some situations.

Up until the Portuguese State Budget Law for 2021, only real estate assets owned by an entity resident in a jurisdiction on the Portuguese prohibited list were subject to municipal property tax (MPT) at an increased and unique rate of 7.5%, as compared with the standard rates of up to 0.8% (depending on the municipality where the asset is located). The State Budget extends the application of the 7.5% increased rate (which is due annually) to real estate assets owned by entities that are controlled, directly or indirectly, by entities resident in a jurisdiction on the list.

As of 1 January 2017, an additional municipal tax is imposed and applies to the sum of all cadastral values of real estate located in Portuguese territory (some deductions are allowed, and some exceptions are available). The taxable basis corresponds to the sum of the tax value of all the urban properties held by each taxpayer, reported as of 1 January of each year, excluding rustic, commercial, industrial and service-related properties, as well as urban buildings classified as residential under the Accessible Renting Program. If owned by individual taxpayers or undivided inheritances, a base deduction applies on EUR600,000 of real estate VPT, which shall not be taxed.

The applicable tax rates, after deductions provided, are as follows:

Additional municipal tax – taxpayer	Rate
Individuals and undivided inheritances	0.7%
Corporations	0.4%
Urban properties owned by entities in tax havens (excluding individual owners)	7.5%

The applicable tax rate to individual taxpayers is 0.7% (applicable where the taxable value of a property ranges between EUR600,000 and EUR1 million). In addition, where the taxable value of properties exceeds EUR1 million, a marginal rate of 1% will be applicable. If the properties' taxable values exceed EUR2 million, a marginal rate of 1.5% applies.

2. Who is liable?

2.1 Liability and territoriality rules applicable to inheritance and gifts

Gratuitous transfers can refer to:
- Ownership rights or partial rights on immovable property, including acquisition by adverse possession/by prescription
- Movable property subject to registration, license or number plate
- Corporate rights, securities and debt claims associated thereto, even if autonomously transferred; government bonds as well as monetary amounts, even when deposited in bank accounts
- Commercial, industrial and agricultural establishments
- Industrial property rights, copyrights and other rights connected thereto
- Debt claims of shareholders on noncommercial pecuniary payments connected with their participation, regardless of the name, nature or form of the incorporation or modification deed, namely shareholder loans, loans, supplementary capital contributions, ancillary capital contributions, as well as any other advance payments granted to the company
- Acquisition resulting from voidness or nullity, dissolution, waiver or desistance, dissolution or revocation of a gift inter vivos, with or without a usufruct reservation, except in cases of a revocable donation due to the donee ingratitude or between spouses, in relation to goods and assets and rights referred to under the preceding paragraphs
- Amounts distributed because of the settlement, revocation or termination of fiduciary structures to taxable persons who have not constituted them
- Crypto assets, as defined in the Personal Income Tax Code (any digital representation of value or rights that can be transferred or electronically stored using distributed recording or similar technology), as of FY2023

The following will not qualify as gratuitous transfers for ST purposes (and, therefore, will not be subject to this tax):
- Family allowance in debt upon death of the beneficiary, credits arising from life insurance, and pensions and subsidies paid by social security systems, even if paid as a death allowance
- Amounts invested in retirement-savings funds, education-savings funds, retirement-education-savings funds, stock-savings funds, pension funds, or movable and immovable investment funds
- Gifts granted under the provisions of the Patronage Law (*Lei do Mecenato*)
- Gifts of goods or values not listed above, according to the common use, up to EUR500
- Transfers on behalf of taxable persons subject to CIT, even when exempted from it
- Goods of a personal or domestic use
- Gifts between spouses or unmarried partners, descendants and ascendants up to EUR5,000

In gratuitous transfers, ST taxpayers are those individuals to whom the goods are transferred, without prejudice of the following rules:
- In successions mortis causa, tax is due on the estate, this being represented by the head of the household and the legatees.
- In any other gratuitous transfer, including the acquisition by adverse possession, tax is due by the beneficial owners.

In gratuitous transfers, tax is due whenever goods are located in national territory. The following are deemed to be considered goods/properties located in Portugal:
- The rights over movable and immovable property situated therein
- Movable property registered or subject to registration or number plate in national territory
- Credit or patrimonial rights over individuals or collective persons when the debtor has residency, registered office, effective management or permanent establishment in the national territory, and provided the beneficiary is domiciled therein
- Shareholdings when the company in question has its headquarters, effective management or permanent establishment in the national territory, provided that the beneficiary is domiciled in this territory

- Monetary values and crypto assets deposited in institutions with headquarters, effective management or permanent establishment in the national territory, or, if no monetary values and crypto assets are deposited (i) the deceased was domiciled in Portugal, in inheritance cases, or (ii) the beneficiary of such transmission is domiciled in Portugal, in the remaining cases
- Industrial property rights, copyrights and other rights connected thereto registered or subject to registration in national territory

The ST Code defines domicile using the rules applicable for PIT purposes for assessing tax residency. Accordingly, the following individuals are resident in Portuguese territory:

1. Those who have remained for more than 183 days, consecutively or not, in any period of 12 months starting or ending in the concerned year
2. Those who have stayed for less time but who have available therein, in any day of the period referred to above, a home in conditions that indicate an intention to keep and occupy it as a habitual residence
3. Those who, on 31 December, are crew members of vessels or aircraft, provided they are in the service of entities with residence, head office or (place of) effective management in that territory
4. Those who discharge abroad an office or commission of a public nature, in the service of the Portuguese State

The status of tax resident in Portugal continues if the individual relocates his or her residency to a country, territory or region subject to a clearly more favorable tax regime, as in the list approved by order of the Minister of Finance, in the year of relocation and in the subsequent four years (this presumption is refutable). This status will cease to apply if he or she becomes tax resident in another country, territory or region not subject to a clearly more favorable tax regime, as in the list approved by order of the Minister of Finance.

Individuals who become tax residents in Portugal under any of the criteria set forth in (1) to (4) and who have not been considered as such in Portugal in the last five years may benefit from a PIT special tax regime, known as the Tax Incentive for Scientific Research and Innovation (NHR 2.0).

This new tax benefit was established with the 2024 State Budget Law, as a "replacement" for the Non-Habitual Resident (NHR) regime, which was revoked as of 1 January 2024, although some transitory rules were still in place until the end of 2024. The main goal of this regime is to attract highly skilled professionals in certain economic areas and professions

What makes this tax incentive attractive?

- A special 20% rate on employment income and business and professional income, derived from the eligible activi-ties
- Tax exemption on all foreign-source income, except pensions and income derived from jurisdictions included in the Portuguese prohibited list

This tax regime provides tax benefits for a period of 10 years, if all conditions are met, and can only be used once by each taxpayer.

The loss of tax-resident status occurs from the last day of staying in Portuguese territory unless the person in Portugal remains more than 183 days on the departure year and derives, after the departure, any Portuguese-source income that would otherwise be subject to tax, in which case, he or she will continue to be considered tax resident in Portugal for the whole year (except if some conditions are met). By contrast, if a tax resident leaves Portugal and returns in the following year after becoming nonresident in Portugal (one year of nonresidency in Portugal), that person will be deemed a Portuguese tax resident for the prior year (year in which he or she had been nonresident).

As of 1 January 2015, the marital status and tax residency of the spouse is no longer a condition to determine tax residency of an individual in Portugal, as the PIT Reform introduced the principle of separate taxation.

3. Rates

3.1 ST

ST on inheritance and gifts is levied at a fixed rate of 10%. An additional 0.8% applies to gifts of real estate (immovable property). Several exemptions are available.

Since FY2023, the fixed rate of 10% will also apply to gratuitous transfers of crypto assets. The ST Code also introduced a fixed rate of 4% levied on commissions and considerations charged by or with the intermediation of crypto assets services providers.

3.2 CIT

A gratuitous transfer would represent a positive net worth variation, taxable at the standard tax rate applicable (currently 20%) plus additional surcharges applicable (municipal – up to a maximum 1.5% tax rate – and state – only above EUR1.5 million taxable profit, from 3% up to 9%).

4. Exemptions and reliefs

4.1 ST

The following exemptions are available:
- Exemption of ST on inheritance for spouses, civil partners, descendants and ascendants
- Exemption of ST on gifts for spouses, civil partners, descendants and ascendants, except for gifts of real estate (immovable property) where a 0.8% rate applies
- Tax exemptions on transfers carried out free of charge as laid down in agreements between the Portuguese State and any person of public or private law

5. Filing procedures

5.1 ST

Taxable amount

The taxable amount for ST purposes is defined in the General Stamp Tax Table. Under specific situations foreseen in the law, the taxable amount may be assessed by indirect methods.

ST on gratuitous transfers applies on the value. Value depends on the type of goods and assets or rights being transferred, for example:
- Real estate: Taxable value (also cadastral value) for property tax purposes (*Imposto Municipal sobre Imóveis*)
- Motor vehicles, motorcycles, tourism aircraft and recreational boats: The higher of the market value and the amount determined according to the rules foreseen in the PIT
- Quotas: Value as per the last balance sheet or the amount assigned in the sharing process or liquidation of the company, except if the company would not continue with the heir, legatee or donee of the deceased partner, the value of the quotas has been defined in the articles of incorporation
- Shares: Official quotation or nominal value up to EUR500 or amount resulting from a specific formula

- Crypto assets: Determined according to the following rules and order:
  - By the application of the specific rules provided in the ST Code
  - By the value of the official quotation when it exists
  - By the value declared by the head of household or beneficiary, which should be as close as possible to the market value. When the Portuguese tax authorities consider on a justified basis that there may be a divergence between the declared value and the market value, the taxable amount may be determined based on the market value.

Responsibility for tax assessment

The following are the applicable rules:

1. The assessment of the tax payable because of a gratuitous transfer is a responsibility of the tax authorities' central services, being promoted by the competent local tax office where the author of the transfer or adverse possessor resides in national territory.
2. In the absence of residency in the national territory, the tax assessment is promoted by the tax office of the residence of the head-of-household or beneficiary.
3. If there are several beneficiaries for the same transfer, as provided for by the end of the preceding paragraph, the tax assessment is promoted by the tax office in which the older beneficiary resides or, in the case the transfer refers to goods located in national territory, where the goods of a higher value are located.
4. In the case of several donors, all or some domiciled in national territory, the tax assessment is promoted by the tax office where the donor resident in the territory that donated the goods of higher value is domiciled and, if the goods are of equal value, the tax office where the older donor is domiciled.
5. In case all donors are domiciled outside national territory, rules (2) and (3) shall apply.

Filing obligations

The head of the household and the beneficiary of any gratuitous transfer subject to tax are required to notify the competent tax office when the following events occur: the receipt of a gift; the death, or declaration of presumptive death, of the de cujus, and the acquisition of property by way of adverse possession, under the terms laid down by the Immovable Property Register Code (*Código do Registo Predial*) or any other deed or contract involving a transfer of property.

Regardless of whether tax is due or not, there shall always be a requirement to present a statement and a list describing any goods and assets and rights, which, in case of tax exemption, shall only include those goods and rights referred to in Article 10 of the PIT Code, as well as any other goods subject to registration, license or number plate, and, except in case of donations in favor of exempt beneficiaries, the monetary values, even if deposited in bank accounts.

Payment

The total tax amount assessed on gratuitous transfers shall be paid until the end of the second month following the notification or during the month in which each installment is due. If tax is paid in a lump sum until the end of the second month following the notification, a deduction of 0.5% per month is available and shall be computed on the amount of each installment according to the circumstances described below, excluding the first mentioned one.

If the tax payable is higher than EUR1,000, it shall be divided into equal installments up to a maximum of 10 and a minimum of EUR200 per installment, the first being increased by the fractions resulting from the rounding sum of all the others, together with any compensatory interest and the real estate transfer tax that may be due. The first installment shall be paid in the second month following the notification and each one of the remaining installments six months after the maturity date of the previous one.

6. Assessments and valuations

This does not apply to Portugal.

7. Trusts, foundations and private purpose funds

Until 2015, trusts were not recognized entities in the Portuguese legal system or in the Portuguese tax system, with the exception of the specific regime for the Madeira Free Zone. Portugal has not ratified the Hague Convention on the Recognition of Trusts dated as of 20 October 1984.

The lack of recognition implied that the tax treatment of trusts was still a grey area in Portugal. However, the Portuguese tax authorities issued a ruling indicating that trusts do not benefit from the application of double-taxation treaties when they obtain income in Portugal, except if so expressly stated in the treaties (as in the case of the treaties signed with the US and Canada), by requiring proof that the trust is the beneficial owner of such income (beyond other requirements foreseen in each of these two treaties).

As from January 2015, a PIT Reform entered in force and introduced rules applicable to fiduciary structures (trusts). As such, if the beneficiary of the trust is the settlor, then:

- If the trust is domiciled in a country, territory or region subject to a more favorable regime, income is subject to PIT at a rate of 35%.
- If the trust is not domiciled in a country, territory or region subject to a more favorable regime, income is subject to PIT at a rate of 28%.

In both cases, this is applicable only if the result of the liquidation, revocation or extinction of the trust, distributed or reimbursed, is higher than the value of the assets transferred by the settlor to the trust upon its constitution.

Income derived by a resident individual from a fiduciary structure (trust) that is neither from the wind-up, revocation or extinction of the trust, nor already taxed under the Portuguese controlled foreign company (CFC) rules, shall be treated as investment income and subject to a personal income tax flat rate of 28%. An aggravated 35% PIT flat rate may apply to this investment income when the nonresident debtor is included in the prohibited list of jurisdictions.

Taxation applies only if the good or asset acquired is located in Portuguese territory at the acquisition date and no ST exemption applies. If the beneficiary of the trust is a third person, income is subject to ST at a rate of 10%.

On the other hand, foundations have a specific legal framework in Portugal. There is no specific tax regime for foundations. Even though, as a general rule, they are subject to several taxes, e.g., CIT and ST, some exemptions may be available, depending on the type of foundation.

There are several types of private funds in Portugal, such as immovable property funds and movable property funds, pension funds, and venture capital funds. Normally, each type has its own legal and tax regime (even though there might not be a specific tax regime, there may be specific rules applicable).

8. Grants

This does not apply to Portugal.

9. Life insurance

Premiums and commissions related to life insurance benefit from an exemption from ST.

10. Civil law on succession

10.1 Estate planning

As mentioned above, Portuguese tax law provides tax exemptions for inheritance and gifts, namely:
- Exemption of inheritance tax for spouses, descendants and ascendants
- Exemption of gift tax for spouses, descendants and ascendants except for gifts of real estate where a 0.8% rate applies

10.2 Succession

The Portuguese Succession Law follows universal succession principles according to the law of the deceased's nationality.

Heirs have universal succession, and unless they refuse to accept the inheritance, they are personally liable for the deceased's debt plus the total taxes due. These obligations are placed upon all the heirs jointly. The heir succeeds to the decedent in all aspects. However, the heirs' liability is limited to the value of the inheritance received in case the heir accepts the inheritance with the benefit of inventory, in which case only the goods and assets included in the inventory respond toward the respective liability (as set forth in Article 2071 of the Portuguese Civil Code). On the contrary, if the inheritance is accepted pure and simple (not accepted under the benefit of inventory), it is up to the heir to make proof that there is not enough value found in the inheritance to meet the respective liabilities.

A legatee under a will has only a personal claim against a compulsory heir (subject to forced heirship laws) and is not liable for a deceased's debt, although it is liable for the relevant taxes on any legacy.

Concerning international successions, since 2015, and according to Regulation (EU) no. 650/2012 of the European Parliament and of the Council of 4 July 2012, as a general rule, the law applicable is of the state in which the deceased had his or her habitual residence upon the time of death.

10.3 Forced heirship

In Portugal, a spouse, relatives[1] and the Portuguese State have automatic inheritance rights (*Heres necessarius*) irrespective of the provisions in a will. This compulsory share or forced heirship is called "*legitima*." Forced heirship applies to all of the deceased's goods and assets and to all of the inheritance rights.

If the deceased makes a disposition prejudicing the rights of any of these heirs, such disposition can be challenged before a Portuguese court and the heirs can make a claim for the associated damages suffered. In the same way, lifetime gifts (donations) can be challenged before a Portuguese court, even if performed in favor of other legitimate heirs.

In practice, forced heirship rules restrict the ability to decide how goods and assets should be distributed after death.

The following relatives are entitled to receive the minimum statutory quotas:

Relatives	Minimum statutory quotas
One child and no spouse	One-half of the inheritance goods and assets
Two or more children and no spouse	A total of two-thirds of the inheritance goods and assets

[1] For the purposes of this law, "relatives" are defined to include children, parents, siblings, grandparents, grandchildren or corresponding in-law or "step" relation.

Relatives	Minimum statutory quotas
One or more ancestors (parents, no spouse and no children)	One-half of the inheritance goods and assets
Surviving spouse	One-half of the inheritance goods and assets
Surviving spouse and a child	A total of two-thirds of the inheritance goods and assets
Surviving spouse and two or more children	Two-thirds of the inheritance goods and assets
Surviving spouse with no children and ancestors	One-half of the inheritance goods and assets

10.4 Matrimonial regimes and civil partnerships

Portuguese family law distinguishes between three marital property regimes:

1. Statutory marital property regime (i.e., community of accrued gains – *Comunhão de adquiridos*): According to this regime, spouses and partners of registered same-sex partnerships hold their goods and assets as separate property during their marriage or partnership, although there are partial restraints on management and disposal. Only goods and property acquired after the marriage are communal. Upon divorce or death, the gains accrued on the property of the spouses or the partners of a registered same-sex partnership during the marriage or the partnership will be shared. Goods and assets inherited are considered own goods and assets, i.e., separate property. Upon formal agreement to be implemented by notarial deed by means of a pre-marriage contract (*Convenção antenupcial*), spouses may elect one of two contractual matrimonial property regimes, which may be further modified (within certain limits) by contract as well.
2. Separation of property (*Separação de bens*): Under this regime, each spouse holds his or her property independently in separate ownership. Management and disposal are not subject to any limitations deriving from the marital status.
3. Community of property (*Comunhão geral de bens*): Under this regime, all goods and assets become joint property of the spouses (common property). Immediate joint ownership is also presumed for any asset acquired by any spouse during the marriage or the partnership while this property regime is in force. Goods and assets that cannot be transferred by legal transaction will not become common property. Within the pre-marriage contract, spouses can agree to exclude certain goods and assets from common property. Goods and assets acquired on inheritance at death or by gift are also excluded if so, stipulated by the decedent or the donor.

10.5 Intestacy

Under the Portuguese Law of Succession, a person may only dispose of his or her legally available quota of property or estate (*Quota disponível*) for the time after death by will (testament).

When a person dies leaving a valid will concerning the disposable quota of his or her goods and assets or estate (in accordance with the quotas described in section 10.3 above), the law will ascertain the validity of the will, provide a set of formalities to be complied with and, in some cases, the taxes to be paid.

The Portuguese Law of Succession will also ensure that the immediate members of the deceased's family are not deprived of their minimum statutory quota of the estate (see section 10.3).

Under the Portuguese rules of succession, there are two forms of making a valid will:
- Public will (*Testamento público*): This is a document drafted by a Portuguese notary upon the instructions of the testator (*Testador*) and read by the notary to ensure that it complies with the wishes of the testator and is signed by the testator in front of two witnesses.
- Secret will (*Testamento cerrado*): This is a will drafted by the testator and approved by the notary under the notarial laws. The testator may keep the secret will in his or her power, have it kept under the custody of a third party, or deposit it in any notary office.

When there are cross-border issues, the conflicts-of-law provisions will be relevant, which are beyond the scope of this book.

10.6 Probate

Portuguese law does not require executors to be appointed; however, when a person dies owning property, it may be necessary to collect documentation, organize certified translations of documents, appoint a local notary and follow specific procedures.

After completing the probate procedure, it will be possible to register the immovable assets in the name of the heirs.

11. Estate tax treaties

Portugal has not concluded any double-tax treaties with other jurisdictions in connection with inheritance and gifts or real estate transfers.

Portugal has signed double-tax treaties for income tax purposes with the following jurisdictions: Algeria, Andorra, Angola, Australia,* Austria, Barbados, Bahrain, Belgium, Brazil, Bulgaria, Canada, Cape Verde, Chile, China Mainland, Colombia, Croatia, Cuba, Cyprus, Czech Republic, Denmark, East Timor, Estonia, Ethiopia, France, Georgia, Germany, Greece, Guinea, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya,* Kuwait, Latvia, Lithuania, Luxembourg, Macau, Malta, Mexico, Moldova, Montenegro, Morocco, Mozambique, Netherlands, Norway, Pakistan, Panama, Peru, Poland, Qatar, Romania, Russia, São Tomé and Príncipe, San Marino, Senegal, Singapore, Slovak Republic, Slovenia, South Africa, South Korea, Saudi Arabia, Spain, Sultanate of Oman, Switzerland, Tunisia, Türkiye, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Venezuela and Vietnam.

* *This tax treaty is not yet in force.*

Singapore

EY contacts:

Singapore

EY Singapore
Level 18 North Tower
One Raffles Quay
Singapore 048583

Desmond Teo
desmond.teo@sg.ey.com
+65 6309 6111

Cedric Tan
cedric.tan@sg.ey.com
+65 6309 8316

Spencer Hsu
spencer.hsu@sg.ey.com
+65 6239 4304

1. Types of tax

Singapore generally does not impose inheritance tax, estate tax, stamp duty on inherited property or wealth taxes. However, there are tax implications for certain residential property sales, transfers not made in accordance with the will or law, gifts and estates that continue to generate income after death, and trusts.

Estate tax on the deemed value of an estate at death has been removed for deaths on and after 15 February 2008. For deaths prior to this date, estate tax was payable on the principal value of all property that passed or was deemed to pass to the beneficiaries, subject to exemptions of SGD9 million for residential properties and SGD600,000 for nonresidential assets.

1.1 Inheritance tax

In Singapore, inheritance tax is governed by the Estate Duty Act 1929 (EDA) and is only applicable for deaths before 15 February 2008.

1.2 Gift tax

This is not applicable in Singapore.

1.3 Real estate transfer tax

Please refer to section 1.5 for more information on stamp duty.

1.4 Endowment tax

There is no endowment tax in Singapore.

1.5 Stamp duty for transfers

Stamp duty on inherited property

As of 19 February 2011, there is no stamp duty upon the distribution of property to a beneficiary of a deceased's estate. Documents relating to the transfer of property by way of assent to the beneficiaries in accordance to the will, Intestate Succession Act or Muslim Law of Inheritance are not liable to stamp duty.

Where there is a distribution of property by way of gift or distribution of asset from a trust, the recipient (i.e., transferee) is liable to pay stamp duty.

Buyer's stamp duty (BSD) on immovable properties

BSD is tax paid on documents signed when there is a transfer or sale and purchase of a property located in Singapore. BSD will be computed on the purchase price as stated in the document to be stamped or market value of the property (whichever is the higher amount).

From 15 February 2023, the top marginal rate for residential properties is 6%, and the top marginal rate for nonresidential properties is 5%.

Effective from 15 February 2023, the BSD rates for transfer of residential and nonresidential properties are as follows:

Purchase price or market value of the property (SGD)	BSD rates for residential properties	BSD rates for nonresidential properties
First 180,000	1%	1%
Next 180,000	2%	2%
Next 640,000	3%	3%
Next 500,000	4%	4%
Next 1,500,000	5%	5%
Remaining amount	6%	–

Different BSD rates may apply to the period prior to 15 February 2023. This should be checked separately if applicable.

Additional buyer's stamp duty (ABSD)

Liable buyers are required to pay ABSD on top of the existing BSD. ABSD and BSD are computed on the purchase price as stated in the dutiable document or the market value of the residential property (whichever is the higher amount).

There could be an ABSD with rates ranging from 0% to 65%,[1] depending on the profile of the buyer and the type of immovable properties, regardless of whether the properties are owned wholly, partially or jointly with others.

[1] Effective from 27 April 2023, different ABSD may applied. This should be checked separately if applicable.

Effective from 27 April 2023, the ABSD rates for purchase or acquisition of residential properties are as follows:

Residential property	Singapore citizen	Singapore permanent resident	Foreigners	Entities (including living trust)	Housing developers	Trustee
First	Not applicable	5%	60%	65%	35% and additional non-remittable 5%[2]	65%
Second	20%	30%				
Third	30%	35%				

Different ABSD rates may apply to the period prior to 27 April 2023. This should be checked separately if applicable.

Remission of ABSD

Nationals and permanent residents of Iceland, Liechtenstein, Norway and Switzerland and nationals of the United States of America are accorded similar stamp duty treatment as Singapore citizens in the purchase of residential properties in Singapore under the respective free trade agreements.

Seller's stamp duty (SSD)

For residential properties acquired on or after 20 February 2010, there may be SSD payable upon the sale of a property that was transferred to a beneficiary at death. SSD is also due for any other form of sale or transfer of residential property outside of that transferred via inheritance.

For residential property transferred because of inheritance or right of survivorship in joint tenancy, the SSD will be payable if the property is disposed of within three years of the property being acquired by the deceased if acquired on or after 11 March 2017.

Effective from 11 March 2017, the SSD rates applied to the market value of the residential property are as follows:

Period of disposal	SSD rate (on the higher of actual price or market value)
Within one year	12%
After one year of ownership but not exceeding two years	8%
After two years of ownership but not exceeding three years	4%
After three years	No SSD payable

Different SSD rates may apply to the period prior to 11 March 2017. This should be checked separately if applicable.

On 11 January 2013, the government announced that SSD will be imposed on industrial properties that are bought or acquired on and after 12 January 2013 and sold or disposed of within three years.

[2] This 5% will not be remitted and is to be paid up front upon purchase of residential property.

Effective from 12 January 2013, the SSD rates applied to the market value of the industrial properties are as follows:

Period of disposal	SSD rate (on the higher of actual price or market value)
Within one year	15%
After one year of ownership but not exceeding two years	10%
After two years of ownership but not exceeding three years	5%
After three years	No SSD payable

For industrial properties acquired prior to 12 January 2013, no SSD will be levied.

There are various exemptions/reliefs that may be available in certain scenarios.

The SSD is generally payable within 14 days of signing the sales agreement, or when it is executed overseas, SSD must be paid within 30 days of the receipt of the contract or agreement in Singapore.

Penalties of up to 400% may be imposed if underreporting is discovered.

Late payment or nonpayment of stamp duty

Documents are required to be stamped within:
- 14 days after the document has been first executed in Singapore
- 30 days after it has been first received in Singapore, if the document was first executed overseas

A penalty of up to four times the duty payable may be imposed if the documents are unstamped, stamped late or stamped insufficiently.

Additional conveyance duties (ACDs)

For transfers involving shares in a Singapore entity that owns prescribed immovable properties in Singapore, if the entity has at least 50% of its total tangible assets comprising immovable properties in Singapore, it will be considered a property-holding entity (PHE).

For buyers of a PHE, apart from the usual stamp duty payable upon the transfer of shares in the entity (currently taxed at 0.2%), additional conveyance duty of 30% is applicable to the entire market value of the underlying residential property owned by the PHE, as well as the existing buyer stamp duty applicable for the transfers of residential properties (per the rates above). For sellers of a PHE, the disposal of shares of a PHE that primarily owns residential properties in Singapore will incur an ACD of 12% applied on the entire market value of the underlying residential property owned by the PHE.

If the entity has less than 50% of its total tangible assets comprising immovable residential properties in Singapore, it will not be considered a PHE. Any transfer of shares in such an entity will be subject to the usual stamp duty rate, which is 0.2% on the purchase price or the value of the shares, whichever is higher.

A document can be presented for stamping at any time before the document is signed. However, once a chargeable document is signed, duty must be paid within:
- 14 days from the date the document is signed (which is the date of the document)
- 30 days from the date of receipt in Singapore, if the document is signed overseas

A penalty of up to four times the duty payable may be imposed if the documents are unstamped, stamped late or insufficiently.

No stamp duties, including ACD, will apply if the transfer of equity interest in a PHE is by way of assent in accordance with a will, the Intestate Succession Act 1967 or Muslim Law of Inheritance.

1.6 Net wealth tax

There is no net wealth tax in Singapore.

1.7 Estate income

Estate duty is the tax on the total market value of a person's assets at the date of his or her death. While estate duty has been removed for deaths on and after 15 February 2008, the assets left behind by the deceased may continue to produce income after his or her death. Estate income refers to the income derived a day after the date of death until the end of the administration period. The executor, administrator or trustee is liable to pay the income tax of an estate, at a flat rate of 17%. Tax on estate income can be paid by Singapore resident beneficiaries at their personal tax rates, instead of the 17% flat rate under specified conditions.

When an estate is no longer under administration and there are more investments and assets left in the estate, these will be held in trust for the beneficiaries. Income derived from assets belonging to the trust is termed trust income (more details are covered in section 7).

Examples of estate and trust income are:
- Rental income
- Interest income
- Share of profit from partnership (tax at trustee level is final)
- Profit from sole-proprietorship business (tax at trustee level is final)
- Dividends from shares declared after death (excluding foreign-sourced dividends, which are tax exempt, or Singapore one-tier dividends)
- Director's fee and non-contractual bonuses declared after death
- Income distributions from unit trusts (UTs) and real estate investment trusts (REITs)
- Gains from share options exercised after death
- Royalties
- Other gains or profits of an income nature
- Gains from the sale or disposal of foreign assets received in Singapore (more details in section 1.8)

For joint bank accounts, upon the death of a joint account holder, the balance in the account will go to the surviving joint account holder(s), as the account lapses to the survivor(s). In this case, any interest income earned after the date of death is not the income of the estate and hence shall not be taxable under this provision.

In the case of properties held under joint tenancy, the surviving owner is required to declare the full share of income for the period after the death of the first owner from such properties in his or her personal income tax return. For properties held under tenancy-in-common, the deceased's share of income should be declared in the estate's return.

1.8 Taxation of gains from sale of foreign assets received in Singapore

Section 10L will apply to gains derived from the sale or disposal of any movable or immovable property situated outside Singapore at the time of such sale or disposal or any rights or interest thereof (foreign asset) under the either of following circumstances:

- The gains are (1) received in Singapore from outside Singapore on or after 1 January 2024 by an entity of a relevant group (seller entity) where such gain is not chargeable to tax as income under Section 10(1) of the Income Tax Act (ITA) in Singapore or the gain is exempt from tax under the IT and (2) derived by an entity without adequate economic substance in Singapore.
- The gains are from the disposal of foreign intellectual property rights (IPRs).

An entity[3] is a member of a group of entities if its assets, liabilities, income, expenses and cash flows are either:

- Included in the consolidated financial statements[4] of the parent entity of the group
- Excluded from the consolidated financial statements of the parent entity of the group solely on size or materiality grounds or on the grounds that the entity is held for sale

A group is a relevant group if either:

- The entities of the group are not all incorporated, registered or established in a single jurisdiction
- Any entity of the group has a place of business outside Singapore

Section 10L of the ITA in Singapore will not apply to gains from the sale or disposal of a foreign asset (not being a foreign IPR) when it is:

- Carried out as part of, or incidental to, the business activities of a financial institution
- Carried out as part of, or incidental to, the business activities or operations of an entity whose income is exempt from tax, or is taxed at a concessionary tax rate, under certain specific tax incentives schemes in Singapore
- Carried out by an excluded entity (i.e., entity that meets certain economic substance requirement — refer to table below)

[3] "Entity" means:
(a) Any legal person (including a limited liability partnership) but not an individual
(b) A general partnership or limited partnership
(c) A trust

[4] "Consolidated financial statements" are financial statements prepared by an entity in accordance with generally accepted accounting standards, in which the assets, liabilities, income, expenses and cash flows of the entity, and the entities in which it has a "controlling interest," are presented as those of a single economic unit. "Controlling interest," in relation to an entity, means an equity interest in the entity such that the holder of the interest:
(a) Is required to consolidate in its financial statements the assets, liabilities, income, expenses and cash flow of the entity on a line-by-line basis in accordance with generally accepted accounting standards
(b) Would be required to do so if it prepares consolidated financial statements

Economic substance requirement

Pure equity-holding entity (PEHE)[5]	■ The entity submits to a public authority any return, statement or account required under the written law under which it is incorporated or registered, being a return, statement or account that it is required by law to regularly submit to that authority. ■ The operations of the entity are managed and performed in Singapore (whether by its employees or by other persons where the activities performed by other persons are subject to the direct and effective control of the entity). ■ The entity has adequate human resources and premises in Singapore to carry out the operations of the entity.

Non-PEHE	■ Operations of the entity are managed and performed in Singapore (whether by its employees or by other persons where the activities performed by other persons are subject to the direct and effective control of the entity).
	■ The entity has adequate economic substance in Singapore, considering the following:
	  ■ The number of full-time employees of the entity (or other persons managing or performing the entity's operations) in Singapore
	  ■ The qualifications and experience of the employees or other persons
	  ■ The amount of business expenditure incurred by the entity in respect of its operations in Singapore
	  ■ Whether the key business decisions of the entity are made by persons in Singapore

Businesses may submit advance ruling applications to the Inland Revenue Authority of Singapore (IRAS) to seek up-front certainty on the adequacy of economic substance when a proposed sale or disposal of foreign assets is expected to take place within a year from the date of the application. The advance ruling, if issued, is valid for up to five YAs, including the YA in which the proposed sale or disposal of foreign assets is expected to take place.

2. Who is liable?

2.1 Residency

Residency does not impact stamp duty or SSD. As outlined above, in the case of estate/trust income, the following applies:

- Nonresident beneficiaries:
  - Tax on nonresident beneficiaries' income distribution will be paid by the personal representative of the estate at the trustee's flat tax rates.
  - Resident beneficiaries:
  - In certain circumstances, income received by the beneficiary may be subject to his or her personal tax rates. Income distributions are taxable on the beneficiary in the year he or she receives it and not the year the income is accrued to the personal representative.

[5] "Pure equity-holding entity" means an entity:
- That functions to hold shares or equity interests in any other entity
- That has no income other than:
  - Dividends or similar payments from the shares or equity interests
  - Gains on the sale or disposal of the shares or equity interests
  - Income incidental to its activities of holding shares or equity interests in any other entity

2.2 Domicile

This is not applicable in Singapore.

3. Rates

Rates vary depending on whether the tax is levied at the individual level or trustee or estate level. The specific rates are detailed under each relevant section accordingly.

In cases where tax is levied on the individual beneficiary, the current personal income tax rates for YA 2025 are as follows:

Resident

Singapore income tax rates for individual tax residents YA 2025 (calendar year 2024)			
	Chargeable income (SGD)	**Tax rate (%)**	**Tax payable (SGD)**
On the first On the next	20,000 10,000	0 2	0 200
On the first On the next	30,000 10,000	- 3.5	200 350
On the first On the next	40,000 40,000	- 7	550 2,800
On the first On the next	80,000 40,000	- 11.5	3,350 4,600
On the first On the next	120,000 40,000	- 15	7,950 6,000
On the first On the next	160,000 40,000	- 18	13,950 7,200
On the first On the next	200,000 40,000	- 19	21,150 7,600
On the first On the next	240,000 40,000	- 19.5	28,750 7,800
On the first On the next	280,000 40,000	- 20	36,550 8,000
On the first On the next	320,000 180,000	- 22	44,550 39,600
On the first On the next	500,000 500,000	- 23	84,150 115,000
On the first In excess of	1,000,000 1,000,000	- 24	199,150 -

In addition, resident individuals may be eligible to claim certain personal reliefs (e.g., spouse relief, qualifying child relief).

Nonresident

- Employment income of nonresidents is taxed at the flat rate of 15% or the progressive resident tax rates (see table above), whichever is the higher tax amount.
- Director's fees, consultation fees and all other income of nonresident individuals are currently taxed at 24%. It applies to all income, including rental income from properties, pension and director's fees, except employment income and certain income taxable at reduced withholding rates.
- No personal tax relief is available.

4. Exemptions and reliefs

Except as mentioned above in sections 1.5 and 3, this is not applicable in Singapore.

5. Filing procedures

This is outlined in each of the respective sections.

6. Assessments and valuations

This is outlined in each of the respective sections.

7. Trusts, foundations and private purpose funds

Trust income is taxed in the same way as estate income as outlined above. If final tax is payable at the trustee level, the rate is 17%.

However, as outlined above, when a beneficiary is a resident of Singapore and entitled to certain trust income, he or she may be taxed on this income at his or her personal tax rates instead. The income will also be treated as if he or she had received it directly (i.e., rather than being regarded as trust income, it will now be considered to have arisen from the same income source as the underlying trust income). The person is also given the same tax exemptions and concessions as accorded to individual resident taxpayers.

It is important to note that this treatment does not apply to trade or business income carried on by the trustees, and this income is subject to final tax at the trustee level. Distributions then made from this income are considered capital in nature and will not be subject to any further tax in the hands of the beneficiaries. The same treatment also applies to beneficiaries who are not entitled to the trust income and to which nonresident beneficiaries are entitled.

Beneficiaries who are residents of Singapore and entitled to trust income are accorded concessions, exemptions and foreign tax credits as if the beneficiaries had received the trust income directly. In other words, it is deemed to have retained the nature of the underlying trust income. No tax will be imposed at the trustee level, except in the case of income from a trade or business, in which case it is subject to a final tax at the trustee level and distributions are then considered nontaxable capital.

Trustee derives income other than trade or business income			
Trustee derives trade or business income	**Beneficiaries are entitled to trust income**		**Beneficiaries are not entitled to trust income**
	Resident beneficiaries	**Nonresident beneficiaries**	
No tax transparency. Tax at the trustee level is final. Trustee is to be treated as a body of persons for purposes of tax and claims for relief, concessions and exemptions. Distributions received by beneficiaries are capital.	Tax transparency will be accorded. Hence, tax will not be applied at trustee level. Beneficiaries are entitled to trust income. Hence, distributions are deemed to have retained the nature of the underlying trust income for the purpose of claiming concessions, exemptions and foreign tax credits.	Tax transparency will not be accorded. Tax at trustee level is final. Trustee is to be treated as a body of persons for purposes of tax and claims for relief, concessions and exemptions. Distributions received by beneficiaries are capital.	

To the extent that tax is due at the trust/estate level, the statutory income of a legal personal representative (LPR) (administrator or executor) is subject to income tax at the rate of 17%.

Example: Resident beneficiary who is entitled to trust/estate income, which is derived from income other than trade or business.

Estate income in 2022	SGD5,000
Distributions to Singapore tax-resident beneficiaries in 2023	SGD4,000*
Chargeable income to LPR	SGD1,000
Tax at estate level: SGD1,000 at 17%	SGD170.00

*The beneficiaries will be assessed on the income distributed to them (SGD4,000) at their respective personal tax rates in year of assessment (YA) 2024.

The estate/trust income tax (Form T) is meant for the administrator, executor or trustee to declare the income that accrues from:
- Assets left behind by a deceased person, beginning one day after the date of death
- Assets held under a private trust or settlement

All income accruing should be reported in Form T regardless of whether it has been distributed to beneficiaries. The following persons (including nonresidents) should submit Form T:
- LPRs (i.e., administrator or executor) of an estate of a deceased or trustee of an estate held in trust
- Trustee of a private trust or settlement

Form T is required to be completed each year until the income derived by the executor or trustee has ceased.

Beneficiaries also need to declare their share of the income in their annual tax returns (Form B/B1) under other income.

8. Grants

This is not applicable in Singapore.

9. Life insurance

Personal life insurance payouts are not taxable as estate tax has been abolished in 2008.

10. Estate tax treaties

Estate tax was abolished in Singapore in 2008.

Slovenia

EY contact:

Ljubljana

Ernst & Young Svetovanje, d.o.o.
Dunajska c. 111
1000 Ljubljana
Slovenia

Mojca Lukač
mojca.lukac@si.ey.com
Office: +386 1 583 1731
Cell: +386 41 332 396

1. Types of tax

In Slovenia, the subject is governed by Inheritance and Gift Tax Act (the Act), which has been in force since 2007 and was amended once in 2016.

1.1 Inheritance and gift tax

The subject of taxation is property that a natural person receives from a natural or legal person as an inheritance or gift; it is not deemed to be income in accordance with the Act governing personal income tax.

When the recipient is a legal person, the subject of taxation is property that is not deemed to be income in accordance with the Act governing corporate income tax.

Property is defined as real property, movable property (including securities and money) and property rights. Bequests are also considered to be gifts.

The taxpayer must announce the receipt of the gift within 15 days from the day of acceptance of the gift at the financial office where it is entered in the tax register.

A taxable person who inherits property subject to inheritance tax does not have to file a tax return. The inheritance tax is assessed on the basis of data contained in the final decision on inheritance, which is sent by the court to the tax authorities. The basis for assessing tax is the value of the inherited property at the time when the tax liability arises, reduced by debts, costs and burdens secured on the property that is subject to such tax. In the case of movable property, the tax base is reduced by EUR5,000. The tax rates vary according to the order of succession.

1.2 Real estate transfer tax

According to the Real Estate Transaction Tax Act, the taxable person is the seller of the real estate property. Tax liability incurs when a contract is concluded based on which property is transferred. In general, the tax base is the selling price of the real estate property and the tax is payable at the rate of 2% of the tax base.

The transfer of real property includes:
- Real estate property swaps
- Financial lease of real estate property
- Transfer of title to property for the purpose of recognizing the title or joint title as a result of construction beyond the property boundary according to the act governing property relations
- Transfer of title to property for the purpose of recognizing the title or joint title as a result of the increased value of real estate property according to the act governing property relations
- Transfer of title upon splitting of joint title, namely of the part exceeding the part of property held by individual joint owners and for which individual joint owners have received payment

1.3 Endowment tax

There is no endowment tax in Slovenia.

1.4 Transfer duty

There is no transfer duty in Slovenia.

1.5 Net wealth tax

Property tax

Slovenia has property tax on immovable property. Property tax is paid by natural persons who have in their possession buildings, parts of buildings, apartments, garages or premises for rest and recreation.

The person liable for property tax is the owner or the users of property regardless of whether the subject of taxation is used by that person alone or is leased to other persons. The taxable basis is the value of the immovable property calculated by competent authority.

The charge for the use of building land

The direct users of the land or building or part of a building should pay a charge for the use of building land. It is charged for the use of building land in the amount determined by municipalities. The charge is charged for the unbuilt land area or for the residential or business floor area.

2. Who is liable?

A person liable for the payment of inheritance and gift tax is a natural or legal person governed by private law who receives property on the basis of an inheritance or gift. A natural person who receives property based on a life care contract or deed of gift in the event of death should also be a taxable person.

2.1 Residency

Revenues from the tax on inheritances or gifts of real estate property and rights to real estate property belong to the municipality where the real estate property is located.

The municipality where the taxable person has a permanent residence or registered office is entitled to the revenues from the tax on inheritances or gifts of movable property and property rights and other rights. If the taxable person does not have a permanent residence or registered office in the Republic of Slovenia, the municipality where this person has a temporary residence shall be entitled to the tax. If this person does not have a temporary residence in the Republic of Slovenia, the municipality where the donor has (or the decedent had) a permanent residence or registered office shall be entitled to the tax.

3. Rates

Tax rates differ in relation to the order of inheritance as follows:

Second order of inheritance (parents, brothers, sisters and their descendants)

From the value of EUR		Tax amount				
Above	Up to and including	EUR		%		EUR
	10,000			5		
10,000	50,000	500	+	6	above	10,000
50,000	100,000	2,900	+	7	above	50,000
100,000	200,000	6,400	+	8	above	100,000
200,000	300,000	14,400	+	10	above	200,000
300,000	400,000	24,400	+	12	above	300,000
400,000		36,400	+	14	above	400,000

Third order of inheritance (grandfathers and grandmothers)

From the value of EUR		Tax amount				
Above	Up to and including	EUR		%		EUR
	10,000			8		
10,000	50,000	800	+	9	above	10,000
50,000	100,000	4,400	+	10	above	50,000
100,000	200,000	9,400	+	11	above	100,000
200,000	300,000	20,400	+	13	above	200,000
300,000	400,000	33,400	+	15	above	300,000
400,000		48,400	+	17	above	400,000

All other persons

From the value of EUR		Tax amount				
Above	Up to and including	EUR		%		EUR
	10,000			12		
10,000	50,000	1,200	+	16	above	10,000
50,000	100,000	7,600	+	20	above	50,000
100,000	200,000	17,600	+	25	above	100,000
200,000	300,000	42,600	+	30	above	200,000
300,000	400,000	72,600	+	35	above	300,000
400,000		107,600	+	39	above	400,000

4. Exemptions and reliefs

Inheritance

The following persons are exempt from inheritance tax: heirs of the first order of succession (child, adopted child, spouse or cohabiting partner of the deceased), son-in-law, daughter-in-law, stepchild of the deceased and persons with whom the deceased lived in a registered same-sex partnership. Tax is further not due if only movable property is inherited not exceeding the total value of EUR5,000. The exemption also applies to farmers who inherit agricultural land. The legislation also allows for other exemptions.

Donation

The recipient of a gift is exempt if he or she is made equal to an heir of the first order of inheritance.

5. Filing procedures

Inheritance and gift tax is assessed on a taxable person by a tax decision. The tax amount is established in accordance with the regulations in force on the day when the tax liability becomes chargeable.

6. Assessments and valuations

A taxable person who receives property as a gift that is subject to the payment of tax should declare the receipt of the gift within 15 days of the time the taxable moment occurred at the tax office where this person is entered in the tax register.

A taxable person who receives a gift of real estate property should declare the receipt of the gift at the tax office where the real estate property is located.

If a taxable person does not have a permanent or temporary residence or registered office in the Republic of Slovenia and is not entered in the tax register, such person should declare a gift consisting of movable property only at the tax office where the donor is entered in the tax register.

If the gift consists of movable and immovable property, the taxable person should declare this gift at the tax office where the real estate property is located.

Assessment of the tax on inheritance is performed by the tax authorities on the basis of data from the final decision on inheritance; if real estate property is the subject of inheritance, the court sends the final decision on inheritance to the tax office in whose territory the real estate property is located. If the inheritance consists of only movable property or if the inherited real estate property is located in the territory of several tax offices, the court sends the decision on inheritance to the tax office where the decedent was entered in the tax register.

The tax office assesses the tax within 30 days of receipt of the tax return or final decision on inheritance.

7. Trusts, foundations and private purpose funds

Slovenian law makes no provision for private purpose funds and trusts. Only foundations can be established solely for the generally beneficial or charitable purpose such as religious purposes, environmental protection, education and similar. It can be established with a will.

8. Grants

With regard to estate taxes, there are no specific rules in Slovenia.

9. Life insurance

In case of death of the insured person, the life insurance beneficiary does not have to pay personal income tax.

10. Civil law on succession

The main Slovenian legislative provisions related to inheritance are in the Inheritance Act.

Under Slovenian inheritance law, property and rights that belong to individuals except personal rights and liabilities can be inherited. A person can inherit by law and will, and a legal entity can only inherit by will. Foreigners have the same inheritance rights as citizens of the Republic of Slovenia, provided that the principle of reciprocity is applied.

Inheritance

There are two types of inheritance: testamentary inheritance (when there is a will of a deceased) and intestate inheritance (in the absence of a will of a deceased and in other statutory cases).

The decedent's estate passes to the heirs at the decedent's death. The heirs are responsible for the decedent's debts up to the value of the inherited property. The decedent's property consists of all his or her property rights that he or she had at the time of death and that may be passed on to heirs according to the rules of inheritance law.

10.1 Forced heirship

There is no forced heirship in Slovenian inheritance law. All citizens are equally entitled to the right to inherit. A decedent's children are equal in terms of inheritance whether or not they were born in marriage.

Slovenian law recognizes a special category of heirs: those with the right to a reserved share. They have the right to a part of the inheritance that cannot be freely distributed by the decedent's will. The reserved share represents a certain proportion of the inheritance that would have been due to an heir if an intestate inheritance had occurred.

10.2 Matrimonial regimes and civil partnerships

The special arrangement applies to the decedent's spouse; in the event that the spouse has no other means of subsistence, he or she is entitled to an increase in the hereditary share. The spouse has no inheritance right if the marriage with the decedent was annulled, or they were divorced, or in case of legal separation from the reason on the side of surviving spouse based on the agreement between them.

10.3 Intestacy

The law of inheritance knows the lawful and testamentary inheritance (inheritance by will). Legal inheritance is clearly defined and takes place in three hereditary orders. The heirs of each next category inherit if there are no heirs of the preceding categories.

The heirs in the higher priorities inherit statutory intestate shares preferentially to the heirs in the lower priorities. The sizes of these shares depend on the number of heirs involved in the inheritance.

The main categories of heirs are as follows:
- Children and spouse of the decedent
- The inheritance of the deceased who has not left descendants is inherited by his or her parents and his or her spouse
- The inheritance of the deceased, who left neither descendants nor parents, nor did they have any descendants or spouses, is inherited by his or her grandparents.

10.4 Hereditary funds

According to the Slovenian Foundations Act, a foundation is an asset tied up for a certain purpose. As mentioned above, its purpose has to be of a beneficial or charitable nature. A foundation may be established by a domestic or foreign natural person or legal entity. The founder may establish a foundation through a legal act inter vivos or in the event of death. The body responsible for foundations has to give its consent to the act of establishment.

11. Estate tax treaties

List of conventions on the avoidance of double taxation with respect to taxes on income and wealth (as of 1 January 2018) can be found at the following link:

https://www.gov.si/drzavni-organi/ministrstva/ministrstvo-za-finance/o-ministrstvu/direktorat-za-sistem-davcnih-carinskih-in-drugih-javnih-prihodkov/seznam-veljavnih-konvencij-o-izogibanju-dvojnega-obdavcevanja-dohodka-in-premozenja/

South Africa

EY contact:

Johannesburg

EY
Private bag X14
Sandton 2146
Johannesburg
South Africa

Emile du Toit
emile.dutoit@za.ey.com
+27 51406 3516

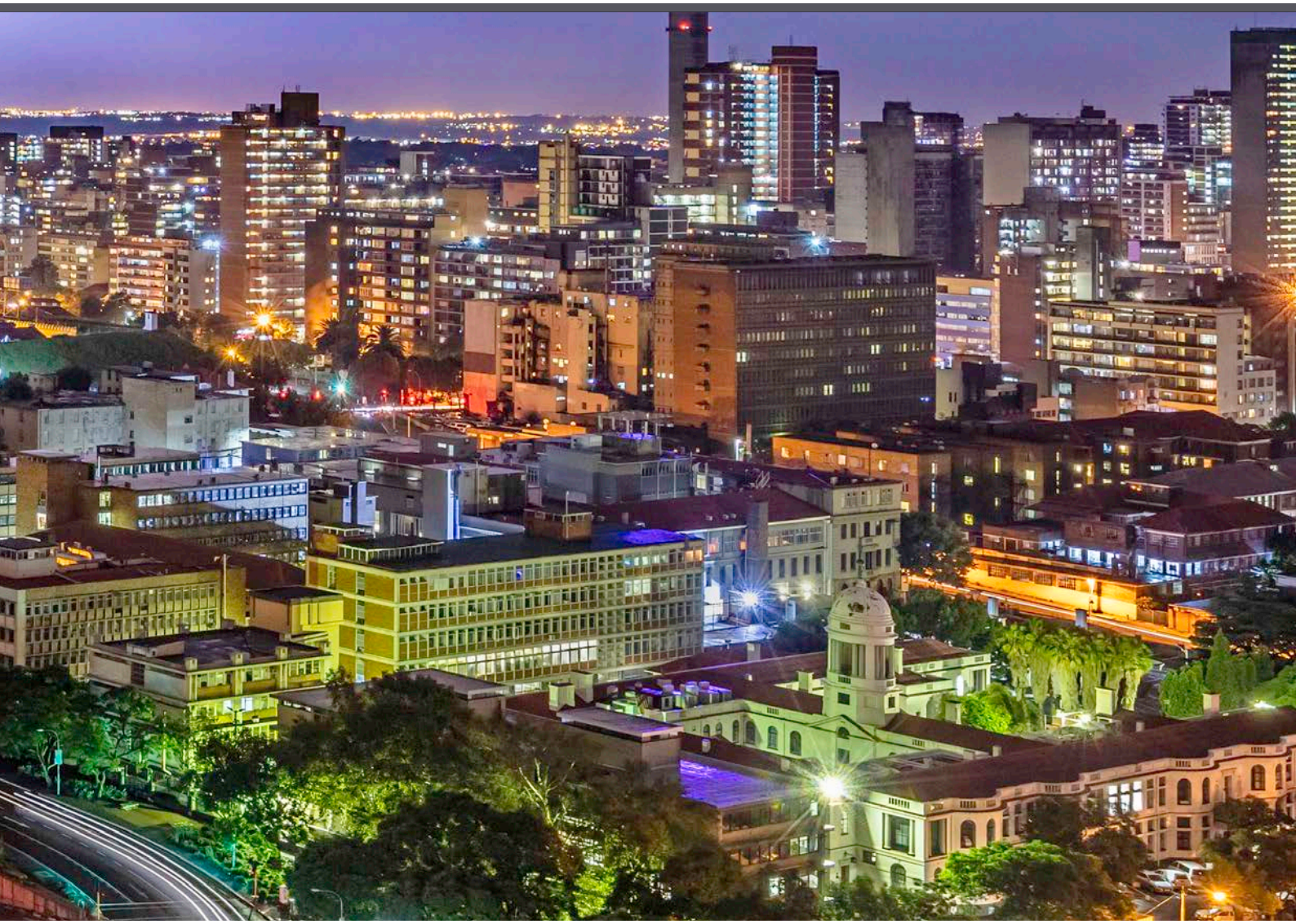
1. Types of tax

1.1 Inheritance tax

In South Africa, no tax is payable by a beneficiary on assets received from an inheritance. Estate duty is what the deceased estate needs to pay before an inheritance can be paid out.

1.2 Gift tax

South African legislation does not contemplate a gift tax. Please refer to an explanation of donations tax under Section 1.6.



1.3 Real estate transfer tax

South African legislation does not contemplate a real estate transfer tax. Transfer duty is the tax levied on the acquisition of fixed property (refer to Section 1.5).

1.4 Endowment tax

Generally, taxes are administered and incurred within the endowment structure. The returns in an endowment investment are taxed at 30% (fixed income) and the effective capital gains tax rate is 12%. Local and offshore endowment policies are subject to South African estate duty, except where the nominated beneficiary is a contract owner's spouse. Offshore endowment policies are generally shielded from foreign estate tax (also known as situs tax).

1.5 Transfer duty

Transfer duty is levied on the acquisition of fixed property with a value exceeding ZAR1.1 million. The rate of the duty on property with a value exceeding ZAR1.1 million depends on the purchase price of the property; the maximum rate is 13%,

which applies to property with a value exceeding ZAR12.1 million. If the purchase price is less than the property's fair value, the tax authorities may calculate the amount of transfer duty payable based on the fair value.

1.6 Net wealth tax

South African legislation does not contemplate a net wealth tax.

1.7 Donations tax

Residents are subject to donations tax on worldwide assets, subject to certain exemptions, including offshore assets acquired by inheritance.

Donations tax is levied at a flat rate of 20% up to ZAR30 million. Effective from 1 March 2018, a rate of 25% applies to donations exceeding ZAR30 million. Exemptions from donations tax are granted for donations of up to ZAR100,000 made each year during a natural person's lifetime.

1.8 Estate duty

Residents are subject to estate duty on worldwide assets, subject to certain exemptions, including offshore assets acquired by inheritance. Nonresidents are subject to estate duty on assets located in South Africa only.

Estate duty is levied at a flat rate of 20% on net assets (dutiable amount) not exceeding ZAR30 million at death. Effective from 1 March 2018, a rate of 25% applies to estates for which the dutiable amount is more than ZAR30 million.

A deceased's estate is subject to duty only to the extent that the net value exceeds ZAR3,500,000 (ZAR7 million for a married couple).

2. Who is liable?

In South Africa, the administration of a deceased estate is supervised by the Master of the High Court. When a person dies, their estate is frozen, and no one may withdraw funds from the deceased's bank accounts or deal with any of the estate assets without the necessary permission from the Master of the High Court. The procedure, which must be followed to administer a deceased estate, is prescribed by the Administration of Estates Act, 66 of 1965 (as amended) (the Administration of Estates Act).

The death of a person who dies within the Republic of South Africa and leaves property or any document that is a will or is intended as a will; and the death of a person who dies outside of the Republic of South Africa, but who leaves property and/or any document that is a will or is intended as a will, in the Republic of South Africa, must be reported to the Master of the High Court.

The executor of an estate in South Africa is appointed by the Master of the High Court to administer the deceased estate. The appointed executor is also the nominated representative taxpayer of the estate and must ensure that the necessary official appointment documents are furnished to the South African Revenue Service (SARS) for the details regarding the estate's representative taxpayer to be updated.

Upon the death of an individual taxpayer, there are two types of assessments to be considered: a predate of death assessment and a post-date of death assessment. The predate of death assessment is for income and deductions applicable to the taxpayer up to the date of his/her death.

The post-date of death assessment is for income earned and deductions applicable to the deceased estate after date of death. For individuals who have passed away on or after 1 March 2016, a second income tax registration is required for the deceased estate if taxable income accrued to the deceased estate. This registration will be triggered by either the executor of the deceased estate or by SARS. If the deceased person was a resident at the time of his or her death, the deceased estate will also be regarded as a resident.

A deceased estate is taxed on any income that is received by or accrued to or in favor of any person in the capacity of the executor, and any other amount that would have been income in the hands of the deceased person had that amount been received by or accrued to or in favor of that deceased person during his or her lifetime.

The executor has a duty to register the estate as a vendor if the deceased person was liable to register for VAT but failed to do so before date of death. The executor must also complete and submit VAT returns in respect of the estate for tax periods after the deceased person's death.

It is normally the responsibility of the executor to pay the duty as levied on the property of the deceased. However, there are instances in which the estate duty is payable directly by the person who is receiving the property. For example, where a policy is payable directly to a beneficiary, the estate duty attributable to such policy is payable by the beneficiary.

The executor is personally liable for the estate duty payable in his or her representative capacity if:

- The estate duty liability remains unpaid, and the executor disposes of the amounts in respect of which the estate duty is due
  Or
- An executor disposes of funds that he or she possesses in a representative capacity or that came into his or her possession after the estate duty liability is due and the funds could legally have been applied to settle the estate duty liability

Estate duty is due within 1 year of date of death or 30 days from date of assessment if assessment is issued within 1 year of date of death. Currently, interest is levied at 6% per annum on late payments.

SARS is responsible for collecting the estate duty.

3. Rates

All individuals (including deceased estates that are regarded as a natural person except for purposes of rebates and medical credits) are taxed at the same rates. The rates for the 2024-25 tax year (effective 1 March 2024) are presented in the following table.

Taxable income		Tax on lower	Rate on
Exceeding	Not exceeding	amount	excess
ZAR	ZAR	ZAR	%
0	237,100	0	18
237,100	370,500	42,678	26
370,500	512,800	77,362	31
512,800	673,000	121,475	36
673,000	857,900	179,147	39
857,900	1, 817,000	251,258	41
1,817,000	–	644,489	45

Capital gains are taxable in South Africa. Capital gains tax (CGT) is imposed through the income tax system by including a portion of the calculated capital gain in the taxable income of a person.

For residents, CGT applies to capital gains derived from the disposal of worldwide tangible and intangible assets. Nonresidents are subject to CGT on capital gains derived from the disposal of immovable property or interests in immovable property estate held directly by the nonresident or the assets of a permanent establishment in South Africa.

A person is deemed to have disposed of his/her assets at the date of death. The deceased person is regarded as having disposed of his/her assets for an amount equal to the market value on the date of death, subject to certain exceptions. One such exception is assets awarded to the surviving spouse, subject to certain conditions.

4. Exemptions and reliefs

A deceased estate is regarded as a natural person except for the purposes of rebates and medical credits. This means that the deceased estate is entitled to the same exclusions and relief provisions as a natural person.

The annual exclusion of capital gains/losses is ZAR300 000 in the year of death. The deceased estate is entitled to the same annual exclusion of capital gains/losses as a natural person of ZAR40 000 per annum.

Should a person bequeath his/her entire estate to their spouse, the ZAR3 500 000 abatement, is passed onto the spouse. This means that when the longest living of the couple passes away, that person has an abatement value of ZAR7 000 000.

5. Filing procedures

All required outstanding returns for the deceased person must be submitted up to date of death.

If taxable income was earned after the date of death and a second registration required, all returns of the deceased estate must be submitted until the deceased estate is finalised and deregistered.

The deceased estate is liable for any tax applicable to income from date of death up to the approval of the Liquidation & Distribution Account (L&D Account) by the Master. Any income earned during the advertisement period up to approval must be declared in the deceased estate's final tax return although not reflected in the income and expenditure account of the L&D Account. Any income earned after approval of the L&D Account accrues to the beneficiaries (if any). The executor must inform the beneficiaries to declare such income in their respective tax returns.

The original L&D Account must be submitted to the Master's Office and copies thereof must be submitted to SARS, together with the REV267 (estate duty return).

6. Assessments and valuations

The Commissioner must approve the valuation of shares held by the deceased person in unlisted companies/close corporations or shareblock companies at the time of death. Shares/members' interests that are bequeathed to the surviving spouse and not sold by the estate, are not required to be approved by SARS provided the full portion of the shares/members' interest that the deceased person held is bequeathed to the surviving spouse in terms of an approved will or intestate succession. Should any portion go to another heir, or the spouse obtains it in terms of a re-distribution agreement, then approval by SARS will be required.

The executor will calculate the estate duty payable when preparing the L&D Account. The executor must complete the Estate Duty Return (REV267) and must submit the return, together with the L&D Account to the Master of the High Court as well as to SARS. SARS will perform an audit for all the taxes pre- and post-death.

The executor will also ensure that all outstanding tax returns are submitted, assessments are issued and tax liabilities/refunds are paid.

As soon as all the tax liabilities have been paid in full, the Deceased Estate Compliance (DEC) letter is issued for all tax types, including estate duty. The DEC letter must be submitted to the Master's Office for the executor to be discharged by the Master. Thereafter the deceased person and his or her estate are deregistered for tax purposes.

7. Trusts, foundations and private purpose funds

There are two types of trusts in South Africa: testamentary trusts and living trusts, also known as *inter vivos* trusts. Testamentary trusts are set up in terms of the will of a testator and only come into effect after the death of the testator. Living trusts are created during the lifetime of a person by way of an agreement between the founder and the trustee for the benefit of the beneficiaries.

Trusts in South Africa can be classified in various ways such as ownership trusts, *inter vivos* trusts, testamentary trusts, bewind trusts, vesting trusts, discretionary trusts, hybrid trusts and specific application trusts. The classification depends on the nature of the trust and the purpose it serves.

The various ways of describing trusts or trust types are not mutually exclusive. An *inter vivos* trust can technically be both a Special Trust Type A and an *inter vivos* trust; and a testamentary trust can be both a Special Trust Type B and a testamentary trust. However, from a tax perspective, approved (and qualifying) special trusts are taxed differently than normal *inter vivos* and testamentary trusts. All trusts need to register with the South African Revenue Service (SARS).

7.1 Trusts

A testamentary trust, also referred to as a will trust, only comes into existence on your death and is created through a clause in your last will and testament, which serves as the trust deed.

If you do not create a testamentary trust any bequests to minor children will be held by the Guardians Fund, which is administered by the Master of the High Court. Alternatively, your last will and testament can contain a clause directing that any minor's portion shall be paid to their guardian and not the Guardians Fund.

7.2 Pension, provident and retirement annuity funds

Pension, provident and retirement annuity funds are not considered property and therefore not dutiable. Where the deceased has nominated beneficiaries on his or her living annuity, these proceeds will be awarded directly to the nominated beneficiaries and therefore do not fall into the deceased's estate and are also not dutiable.

8. Life insurance

You will also need to include the value of all deemed property in your estate, with deemed property referring to those assets that do not exist at the date of death, but that will come into fruition in the event of your death, such as life insurance policies. In this regard, it is important to note that deemed property includes the proceeds of domestic insurance policies taken out on your life, although keep in mind that if the proceeds are payable to your spouse or child in terms of a registered anti-nuptial or post-nuptial contract, they are excluded for estate duty purposes. Similarly, the proceeds of business assurance policies that are correctly structured are exempt from estate duty.

9. Civil law on succession

9.1 Estate planning

Please refer to an explanation of trusts under 7.1.

9.2 Succession

In South Africa the law of succession comprises the common law of succession and the customary law of succession. These enjoy equal status and are subject to the Constitution of South Africa and other legislation.

The common law of succession is divided into the testate law of succession and the intestate law of succession. Where the deceased dies leaving a valid will, the rules of testate succession, derived from common law and other legislation, apply. The customary law of succession only operates intestate.

9.3 Forced heirship

South Africa does not have forced heirship rules.

9.4 Matrimonial regimes and civil partnerships

Couples who solemnize their marriages in South Africa are subject to a community property regime that applies to all property. A prenuptial agreement may be concluded if a couple wishes to elect out of the community property regime. The regime does not apply to couples who do not solemnize their marriages in South Africa or to couples with a non-South African husband, unless they establish a marital domicile in South Africa by seeking a Supreme Court confirmation subjecting the couple to South African marriage legislation.

9.5 Intestacy

If you die intestate in South Africa, your estate will devolve according to the Intestate Succession Act, 1987 (Act 81 of 1987). Your estate will be divided among your surviving spouse, children, parents or siblings according to a set formula. Any foreign assets held will distributed based on the law specific to each country.

9.6 Probate or letters of administration

The executor of an estate in South Africa is appointed by the Master of the High Court to administer the deceased estate. The deceased nominates an executor in his or her will and the Master appoints such executor subject to certain requirements. If the deceased did not nominate an executor, the beneficiaries may nominate an executor for the Master to appoint.

If the estate is administered under section 18(3) of the Administration of Estates Act (which means the gross value of the estate is less than ZAR250 000) the Master appoints an executor that is referred to as the Master's representative (also referred to as a section 18(3) appointment), following the same process described above.

In the event the surviving spouse, children of deceased or parent(s) of the deceased apply to be executor, the Master does not require a bond of security. Any other person will be required to provide a bond of security equal to the value of the estate assets.

In terms of section 56(1) of the Administration of Estates Act, an executor may make application to the Master to be discharged from his or her duties as appointed executor upon the completion of the liquidation and distribution of the deceased estate to the satisfaction of the Master subject to section 17 of the Estate Duty Act, 45 of 1955.

Application to the Master must be in the form of an affidavit and must be lodged by the Applicant/executor with the relevant Master overseeing the administration of the estate. The affidavit must be deposed to by the executor and confirm, inter alia, that all estate liabilities have been discharged, all assets have been transferred to the rightful heirs or legatees, the estate duty, if any, has been paid and any amounts due to SARS for personal/capital gains taxes have been paid.

The Deceased Estate Compliance letter serves as a confirmation from SARS to the Master that all the tax obligations of the deceased person and his or her deceased estate are complied with, including payment of estate duty.

10. Estate tax treaties

10.1 Unilateral rules

Estate duty is a situs tax levied on South African tax residents on a worldwide basis and on nonresidents on their SA-situated assets. In terms of the Estate Duty Act, dutiable property includes any right in or right to property whether moveable or immoveable, corporeal or incorporeal. Pension, provident and retirement annuity funds are not considered property and therefore not dutiable. Also, assets held in trust do not fall into the estate of the deceased and do not attract estate duty.

Double taxation may arise if the same assets of the deceased person are subject to estate duty in South Africa as well as the equivalent thereof in the foreign country.

South Africa has entered into estate duty agreements to avoid double taxation on estate duty. Please refer to 11.2 below for a complete list.

Inheritance tax (levied on deceased estates in the United Kingdom (UK)) and federal estate tax (levied on deceased estates in the United States (US)) are generally levied on assets that are classified as UK or US situs assets respectively, even when these situs assets are owned by nonresidents. The various types of assets include immovable property, equities and unit trusts. South Africa has DTAs with both the UK and the US, and depending on the exact terms of the agreement, South African tax residents may be able to deduct the tax payment made in the US and/or UK against any tax payable in South Africa.

Where double taxation on estate duty arises and no estate duty agreement exists between South Africa and the foreign country, relief for the double taxation must be sought under domestic rules.

10.2 Double-taxation treaties

South Africa has entered into an estate duty agreement with the following countries:

- BLS countries (Botswana, Lesotho and Swaziland)
- United States
- United Kingdom
- Zimbabwe

South Korea

EY contact:

Seoul

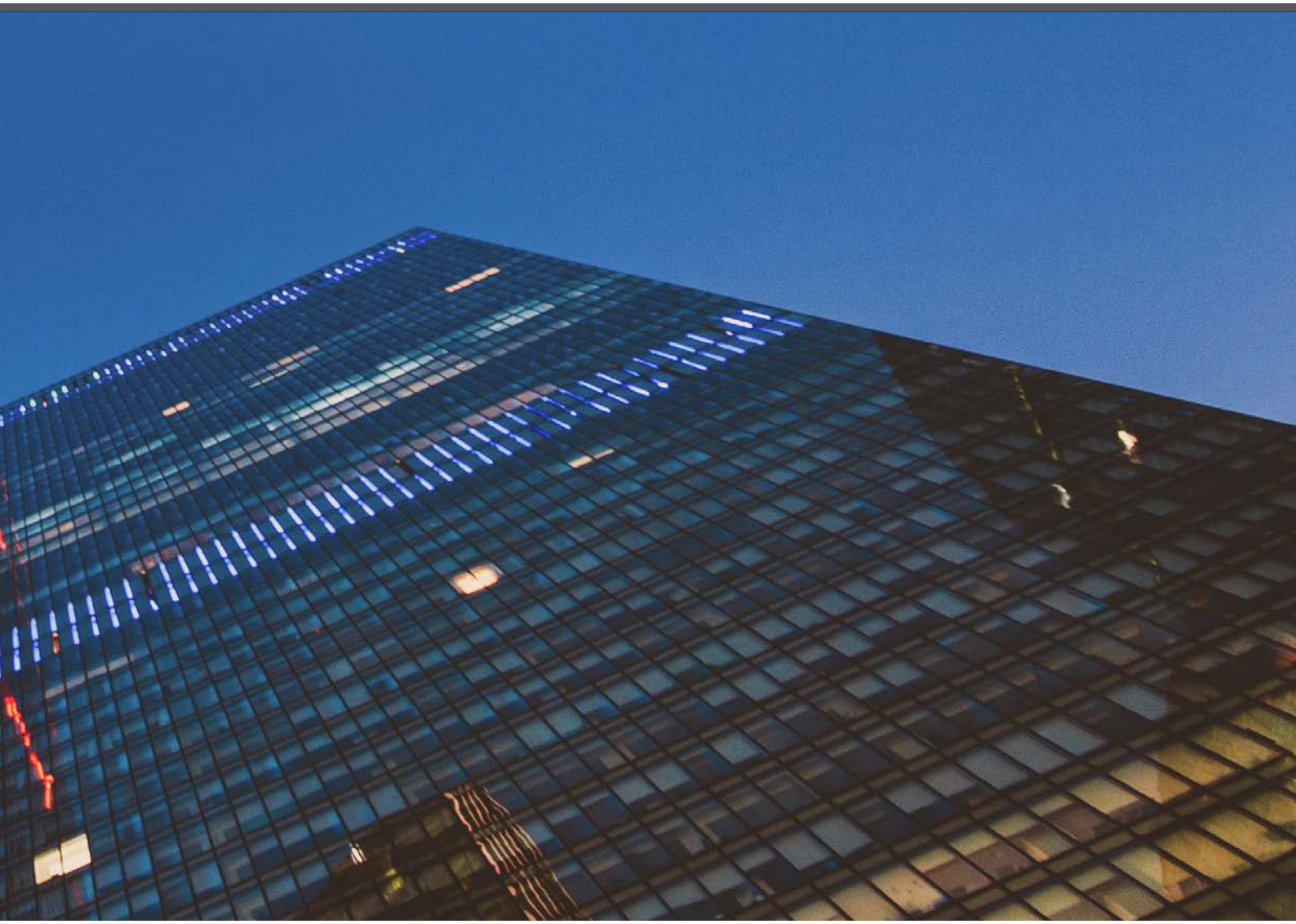
EY
Taeyoung Building
111 Yeouigongwon-ro
Yeongdeungpo-gu
Seoul 07241
South Korea

Narae Lee
na-rae.lee@kr.ey.com
+82 2 3770 0928

1. Types of tax

Inheritance tax is imposed on inherited property that is transferred upon the death of an individual. Such property includes a testamentary gift, a donation becoming effective at the death of an individual and a divisional donation, which is inherited to a special party under certain circumstances stipulated in the Civil Act.

Gift tax is imposed on a transfer (including a transfer at a price significantly lower than the fair market value) of property by one person to another with no compensation. With the comprehensive taxation principle adopted in 2004, gift tax is imposed based on the economic substance of the transaction regardless of its title, form or objective.



1.1 Inheritance tax

Taxpayer

A beneficiary or a person who receives a testamentary gift (hereafter referred to as a beneficiary or testamentary donee) is obligated to pay inheritance taxes, in proportion to the properties received or to be received by each beneficiary or testamentary donee out of the total properties inherited from the decedent. When the beneficiary or testamentary donee is a for-profit corporation, the for-profit corporation is exempted from inheritance taxes. However, when the beneficiary or testamentary donee is a for-profit corporation and shareholders of the for-profit corporation include beneficiaries, testamentary donee or lineal descendants of the deceased, the shareholders (who are also the beneficiaries, testamentary donee or lineal descendants of the deceased) shall be liable for inheritance tax corresponding to his or her stake in the for-profit corporation whose inheritance tax was exempted.

Beneficiaries or testamentary donees are jointly and severally obligated to pay the inheritance tax within limits of the property received (including property received within 10 years prior to a succession date, i.e., date of death) or to be received by each beneficiary or testamentary donee, less debts/liabilities relating to the succeeded assets and prepaid gift taxes.

Scope of inherited property

The inheritance tax is assessed on all properties bequeathed by a resident and all properties within the Korean territory bequeathed by a nonresident.

The inherited property includes all properties that may be realized as money or having economic value and all de facto or de jure rights having asset value.

From the date of the commencement of the succession, the following assets are deemed taxable:
- Inherited property (including donated property transferred upon the death of an individual)
- Property donated within 10 years prior to the commencement date of the succession by the deceased to the beneficiary
- Property donated within five years prior to the commencement date of the succession by the deceased to a person other than the beneficiary

In case of the death of a nonresident, only those donated properties that are located within the Korean territory are deemed taxable.

1.2 Gift tax

Taxpayer

A person who receives donated property (hereafter referred to as a donee) is obligated to pay gift taxes. Generally, if the donee is a for-profit corporation, the donee is exempt from gift tax liability.

A donee who is a nonresident on the day of the donation is obligated to pay gift taxes only in respect of that donated property located within the Korean territory.

In case a resident donor makes a gift of any property or asset located outside of South Korea to a nonresident donee (excluding a gift effected by the death of a donor), the resident donor is obligated to pay gift tax. However, if the donor and the donee are not treated as related parties under the relevant Korean tax regimes, and gift tax (or that of similar nature) is imposed on the same property pursuant to the law of the relevant foreign country, then the donor is exempt from Korean gift tax.

The donor is jointly and severally liable to pay gift tax in cases where it is difficult to secure the gift tax claim, due to reasons such as when the domicile or temporary domicile of the donee is unknown, or when the donee is deemed not to have the ability to pay the gift tax even after taking measures against the donee to recover taxes in arrears. Even when the conditions for a donor's joint and several liabilities for the gift tax are not met, the donor is jointly and severally liable to pay the gift tax when the donee is a nonresident.

Scope of tax

Gift tax is applicable not only to any property donated to a Korean resident but also to any property within the Korean territory donated to a nonresident.

Gift property refers to all properties donated to a donee that may be realized as money or having economic value and all *de facto* or *de jure* rights having asset value.

Sum of economic value equal to or more than KRW10 million from the gift property donated by a single donor (including the spouse of lineal ascendant) within 10 years is also subject to gift tax.

Nontaxed donated property

Generally, the amounts of gifts or donated properties in any of the following cases are nontaxable:

1. The value of property received as a donation from the state or local government
2. The difference between the acquisition value and market value of shares when the employee (who is also a minority shareholder) of a domestic corporation has acquired relevant shares through the employee's stockholder association
3. The value of donated property received by a political party
4. The value of donated property received by the intracompany labor welfare fund or another similar association
5. Socially accepted and recognized funds (e.g., disaster relief funds and goods, medical fees, dependents' living expenses and education expenses)
6. The value of donated property received by the Credit Guarantee Fund or other similar associations
7. The value of donated property received by the state, local government or a public organization
8. The value of transferred property by a nonprofit organization to another nonprofit organization in order to meet requirements mandated by the law
9. Insurance proceeds capped at the maximum of KRW40 million per year where an insured beneficiary is disabled

1.3 Real estate transfer tax

Generally, gains arising from the transfer of real estate are subject to capital gains tax rather than gift tax under the Individual Income Tax Law (IITL). However, gift tax would apply for a transfer of real estate when the transfer is deemed as a gift, despite its possible form as a sale, in accordance with the Inheritance and Gift Tax Law (IGTL). Examples of such cases are as follows:

- Properties transferred or taken over at a remarkably lower or higher price than the market value without any justifiable reasons in the common practices of transactions would be deemed as a gift.
- Properties transferred to the spouse or lineal ascendants/descendants (hereafter referred to as spouse, etc.) shall be deemed as a gift, and the value of the transferred properties would be viewed as the value of gift properties.

1.4 Endowment tax

This is not applicable in Korea.

1.5 Transfer duty

Real estate inherited is subject to Korean acquisition tax at the rate of 3.16% (including surtaxes) of the value of the real estate. Furthermore, the real estate acquired through donation is subject to acquisition tax at the rate of 4% (including surtaxes).

1.6 Net wealth tax

This is not applicable in Korea.

1.7 Exit (departure) tax

An exit tax is imposed on the unrealized capital gains of shares in Korean companies held by Korean residents who emigrate to a foreign country on or after 1 January 2018.

The exit tax will be assessed as if the shares are sold on the day the emigration takes place. The exit tax regime applies to shares of domestic companies including, but not limited to, "land-rich companies" and to majority shareholders (which are stipulated under the IITL) who have had a domicile or place of residence in Korea for 5 years or more during the past 10 years. Shares of "land-rich companies," whose 50% or more of the assets are composed of immovable property, are subject to exit tax when majority shareholders, who own 50% or more of shares, depart Korea. Also, 50% or more of shares held by majority shareholders in companies in the business of golf courses, ski resorts and/or other real property development are also subject to exit tax if 80% or more of assets of such companies are composed of immovable property.

A person subject to exit tax is required to report the list of domestic shares held as of the day before the departure date to the district tax office. The taxpayer (or the designated tax agent) should file the capital gains tax return within three months following the month of departure. The tax rate is 20% (22% including local income surtax) on capital gains less than or equal to KRW300 million, and 25% (27.5% including local income surtax) on gains in excess of KRW300 million. For Korean residents who emigrate to a foreign country on and after 1 January 2025, KRW50 million per year can be deducted from the capital gains arising from the sales of specified stocks as prescribed by Presidential Decree, and KRW2.5 million per year can deducted from the sale of all other stocks.

To prevent double taxation, those subject to the exit tax will be able to claim a foreign tax credit for tax paid in a foreign country in case of an actual share transfer by submitting the claim for tax credit application to the district tax office within two years from the actual transfer date. An additional tax credit may be claimed in the same manner as a claim for a foreign tax credit if the share price on the actual transfer date is lower than at the time the exit tax was levied. In addition, if certain requirements are met, such as pledging collateral security for tax payment and appointing a tax agent, the tax payment can be postponed for 5 years (10 years for those studying abroad). The exit tax paid (excluding penalty payment) will be refunded if the taxpayer re-enters Korea and becomes a Korean resident.

2. Who is liable?

2.1 Residency

Residency of a decedent is determined pursuant to the IITL. Generally, an individual who holds domicile or has held temporary domicile in Korea for 183 days or longer is considered a Korean resident, while an individual who is not domiciled shall be treated as a nonresident of Korea. Beginning in 2026, the method for determining the 183-day threshold for residency status will consider a continuous period of stay. This means that the count of days spent in Korea from the previous tax year will carry over and could influence residency status in the subsequent year. It's important to note that temporary absences from Korea, such as for travel or medical treatment, will still be included in the total count of days spent in Korea.

Inheritance tax

Residency determines the scope of reportable inherited properties and allowable deductions. Inheritance tax is assessed on all properties bequeathed by a resident and all properties within the Korean territory bequeathed by a nonresident. More expenses and deductions are permitted to residents than to nonresidents.

Gift tax

Gift tax applies to all property donated to a resident and all property within the Korean territory donated to a nonresident. In a case where a nonresident donee who is not a related party with a donor obliged to pay gift tax in his or her resident country, the said donee is exempt from Korean gift tax.

2.2 Domicile

Inheritance tax

Inheritance tax shall be levied by the tax office having jurisdiction over the place of the domicile of the decedent. In cases where the place of the commencement of succession is overseas, inheritance tax shall be levied by the tax office having jurisdiction over the location of the property that is within the Korean territory. In cases where the inherited property is within two or more jurisdictions, inheritance tax shall be levied by the tax office having jurisdiction over the location of the main property.

Gift tax

Gift tax shall be levied by the tax office having jurisdiction over the place of the domicile of the donee. In cases where the donee is a nonresident or the domicile or temporary domicile of the donee is unknown, gift tax shall be levied by the tax office having jurisdiction over the place of the domicile of the donor.

3. Rates

3.1 Inheritance tax

Inheritance tax is calculated by applying the marginal tax rates, ranging between 10% and 50%, to the tax base, as in the following table:

Tax base	Tax rates
KRW100 million or less	10%
Above KRW100 million to KRW500 million	KRW10 million + (20% * the excess above KRW100 million)
Above KRW500 million to KRW1 billion	KRW90 million + (30% * the excess above KRW500 million)
Above KRW1 billion to KRW3 billion	KRW240 million + (40% * the excess above KRW1 billion)
More than KRW3 billion	KRW1.04 billion + (50% * the excess above KRW3 billion)

Generation-skipping inheritance tax

When the beneficiary or testamentary donee is a lineal descendant other than a son or daughter of the deceased, a surtax of 30% is levied in addition to inheritance tax. In cases where the beneficiary or testamentary donee is a minor and lineal descendant other than a son or daughter of the deceased, a surtax of 40% is levied when the total value of properties received or to be received exceeds KRW2 billion.

Tax credits

The following inheritance tax credits are available mainly for the purpose of avoiding double taxation:

1. *Gift tax credit*: In case the inherited property includes donated property for the purpose of calculating the inheritance tax base, gift tax computed from the donated property is available as a tax credit.
2. *Foreign tax credit*: If inheritance tax was paid on the inherited property in a foreign country, the inheritance tax paid in the foreign country is available as a tax credit.
3. *Tax credit for short-time re-succession*: In cases where inheritance recommences due to the death of a beneficiary within 10 years of the commencement of the earlier inheritance, the phase-out credit is available for the second-generation beneficiary, as in the following table, capped at the computed tax less prepaid gift tax and foreign taxes paid:

Re-succession period	Credit percentage
Within 1 year	100%
Within 2 years	90%
Within 3 years	80%
Within 4 years	70%
Within 5 years	60%
Within 6 years	50%
Within 7 years	40%
Within 8 years	30%
Within 9 years	20%
Within 10 years	10%

4. *Tax credit for filing on time*: A 3% tax credit is available for those taxpayers filing tax returns on time.

3.2 Gift tax

Gift tax is calculated by applying the marginal tax rates, ranging between 10% and 50%, to the tax base, as in the following table:

Tax base	Tax rates
KRW100 million or less	10%
Above KRW100 million to KRW500 million	KRW10 million + (20% * the excess above KRW100 million)
Above KRW500 million to KRW1 billion	KRW90 million + (30% * the excess above KRW500 million)
Above KRW1 billion to KRW3 billion	KRW240 million + (40% * the excess above KRW1 billion)
Above KRW3 billion	KRW1.04 billion + (50% * the excess above KRW3 billion)

Generation-skipping gift tax

When the donee is a lineal descendant other than a son or daughter of the donor, a surtax of 30% is levied in addition to gift tax. In cases where the donee is a minor and is the lineal descendant other than a son or daughter of the donor, a surtax of 40% is levied when the total value of properties received or to be received exceeds KRW2 billion.

Tax credits

The following gift tax credits are available mainly for the purpose of avoiding double taxation:

1. *Credit for previously paid gift taxes*: The amount of gift tax paid previously or to be paid with respect to the value of property received from the same donor during the past 10 years (aggregated amount of the values of donated properties if there are more than two donations) can be claimed as a tax credit if the value of property received previously is added to the taxable amount of gift tax.
2. *Foreign tax credit*: A foreign tax credit is granted for the amount paid on the donated property in a foreign country as a gift tax.
3. *Tax credit for filing on time:* A 3% tax credit is available for those taxpayers filing tax returns on time.

4. Exemptions and reliefs

4.1 Inheritance tax

Inheritance deductions

Among the various deductions stated below, only KRW200 million of the basic deduction is applied if the deceased is a nonresident, while any of the itemized deductions are applied to the resident deceased on top of basic deduction.

Itemized deductions

1. One of the following can be deducted from the taxable amount if the inheritance falls under any of the following categories:
   - Inherited family business (a small- to medium-sized business that has been run by the deceased for 10 years or longer and meets certain conditions) – the amount of deduction is the value of an inherited family business but would be capped at: (i) KRW30 billion for a business run for 10 years or longer but less than 20 years, (ii) KRW40 billion for a business run for 20 years or longer but less than 30 years, and (iii) KRW60 billion for a business run for 30 years or longer.
   - Inherited farming business (including livestock-raising, fishing and forest management) – the value of the inherited farming business, capped at the maximum of KRW2 billion.
2. The actual amount inherited by the spouse is deductible. The amount of spousal deduction is allowed between the minimum of KRW500 million and the maximum of KRW3 billion.
3. If the beneficiary falls under any of the following categories, the sum of amounts allowed for each category is added together and deducted from the taxable amount:
   - With respect to a child of the deceased, KRW50 million
   - With respect to a minor (excluding the spouse) who is either a beneficiary or a family member of the deceased, KRW10 million multiplied by the number of years until the minor reaches 19 years of age
   - With respect to a beneficiary or a family member of the deceased (excluding the spouse) who is 65 years old or older, KRW50 million
   - With respect to a disabled person (including a spouse) who is either a beneficiary or a family member of the deceased, KRW10 million multiplied by the number of expected remaining years as announced by Statistics South Korea

- With respect to the beneficiary satisfying all of the following conditions, 100% of the net value of the inherited house (including the value of the land attached to the house) less relevant debt, but the deduction amount would be capped at the maximum of KRW600 million:
  (i) Beneficiary is a lineal descendant (including the spouse of lineal descendant) of the deceased and had resided in the same house with the deceased for 10 years or longer (excluding the period when the beneficiary was a minor) immediately before the commencement of the inheritance
  (ii) Beneficiary and the deceased formed a single household that owned only one house, as prescribed by the IITL, for 10 years or longer immediately before the commencement of the inheritance
  (iii) Beneficiary who does not own a house or jointly owned a house with the deceased as of the date of the commencement of the inheritance

Lump-sum deduction option

The taxpayer has an option to deduct either the sum of a basic deduction and itemized deductions (stated in Section 4.1), or a lump-sum amount of KRW500 million, whichever is greater. Even if the deduction option is not reported through the voluntary filing, the taxpayer can have an option to choose between the sum of the basic deductions and itemized deductions, and the lump-sum deduction through post-filing of the returns. In case the spouse alone receives the inheritance, a lump-sum option is not available.

Administrative expense deductions

In cases where the deceased is a resident, the following expenses relating to the deceased or the inherited property as of the commencement date of the inheritance are subtracted from the value of the inherited property:

- Public imposts, including taxes and public utility expenses transferred to the beneficiary that were due to the deceased as of the date of the commencement of the inheritance
- Funeral expenses based on actual costs incurred from the date of death through the date of the funeral:
- KRW5 million, if the actual cost incurred is KRW5 million or below
- Actual amount, if the actual cost incurred is above KRW5 million to KRW10 million
- KRW10 million, if the actual cost incurred exceeds KRW10 million
- Actual burial chamber usage fee incurred up to KRW5 million, if any
- Debts left by the deceased for which the beneficiary is able to prove that he or she is responsible to settle upon the commencement of the inheritance

In cases where the deceased is a nonresident, the following expenses are deducted from the value of the inherited property:

- Public imposts, including taxes and public utility expenses relating to the inherited property
- Debts secured with liens, pledges, right to lease on a deposit basis, right of lease, right to property transferred for security or mortgages that are related to the inherited property
- Debts and public imposts, confirmed in accordance with books and records, if the nonresident had business place(s) within the Korean territory at the time of his or her death

Deductions for financial property

If the inherited property includes a value of net financial property, which is a value obtained by deducting a financial debt from the value of financial property, the following amount capped at the maximum of KRW200 million would be deducted from the taxable amount of inheritance taxes:

1. When the value of net financial property exceeds KRW20 million: 20% of the value of net financial property or KRW20 million, whichever is larger
2. When the value of net financial property does not exceed KRW20 million: the value of the relevant net financial property

Financial property includes deposits, installment savings, trusts, stocks, bonds, equity shares, investment in capital and other marketable securities that are generally handled by financial institutions.

4.2 Gift tax

Gift deductions

Only a resident donee is subject to the Itemized deductions.

Itemized deductions

In cases where a resident donee receives donated property from any of the following persons, each of the following amounts is deductible from the taxable amount of a gift. However, the sum of deductions (excluding the deduction amount from "marriage and childbirth gifted property deduction") already taken within 10 years prior to the relevant donation and the deduction to be taken for the relevant donation during the current year shall not exceed the threshold amount stated in the following:

- Spouse: KRW600 million
- Lineal ascendant: KRW50 million (KRW20 million if the donee is a minor)
- Lineal descendant: KRW50 million
- Relative other than a spouse or a lineal family member: KRW10 million

Marriage and childbirth gifted property deduction

The marriage and childbirth gifted property deduction system has been introduced as of FY2024; thus, the corresponding deduction amount applies only to gifts made on or after 1 January 2024. If a resident donee receives donated property from a linear ascendant within two years before or after his or her date of marriage, a deduction of KRW100 million will be made from the taxable amount of the gift; this is separate from itemized deduction related to linear ascendant. It is important to note that the maximum eligible deduction amount from the taxable gift amount is capped at KRW100 million, including any deductions already claimed by the donee in accordance with previous provisions.

5. Filing procedures

5.1 Inheritance tax

Tax returns and payment

A beneficiary or a testamentary donee having an inheritance tax payment obligation must file a tax return within six months of the last day of the month in which the inheritance commenced, together with detailed supporting documentation that can prove the type, quantity, appraised value, distribution of property and all types of deductions of the inherited property necessary for the calculation of the inheritance tax base.

When the inheritance tax to be paid exceeds KRW10 million, a part of the total taxes due may be paid in installments within two months after the payment due date, unless payment by annual installments is permitted. When the inheritance tax to be paid exceeds KRW20 million, the head of the district tax office may permit payment by annual installments upon filing of an application. In such cases, the taxpayer shall provide a security.

The head of the district tax office may permit in-kind payment of inheritance tax (limited to real estate and marketable securities but excluding shares and equities) upon filing of an application by the taxpayer, if all of the following conditions are met:

- The value of real estate and marketable securities (excluding shares and equities) inherited accounts for more than 50% of the inherited property received.
- The amount of the inheritance tax is in excess of KRW20 million.
- The amount of the inheritance tax is in excess of the value of the inherited financial assets (excluding lifetime gift received within 10 years prior to the date of death).

Determination by tax office

The district tax office may revisit the inheritance tax returns filed and assess additional taxes within nine months from the filing due date of the tax return.

5.2 Gift tax

Tax returns and payment

A donee having a gift tax liability must file a tax return within three months of the last day of the month in which the donated property was received, together with detailed supporting documentation.

When the gift tax to be paid exceeds KRW10 million, a part of the total due may be paid in installments within two months after the payment due date, unless payment by annual installments is permitted. When the gift tax to be paid is in excess of KRW20 million, the head of the district tax office may permit payment by annual installments upon filing of an application. In such cases, the taxpayer shall provide a security.

Determination by tax office

The district tax office may revisit the gift tax returns filed and assess additional taxes within six months from the filing due date of the tax return.

6. Assessments and valuations

6.1 Inheritance tax

In principle, the value of inherited property is assessed based on its current market value (e.g., arm's-length price, appraised value) on the commencement date of inheritance. The following methods of valuation are applied when the market value is not available:

- Land: publicly notified individual land price in accordance with the Public Notice of Values and Appraisal of Real Estate Act
- Buildings: the value determined and published by the Commissioner of the National Tax Service (NTS) every year

- Listed stocks: four-month average closing market price (two months prior to and two months after the valuation date)
- Non-listed stocks: the value of unlisted shares shall be calculated based on the weighted average of the adjusted net income value per share and the adjusted net asset value per share in the proportion of three to two (exceptions may apply). Previously applied control premium of 30% at the maximum has been reduced to 20% for inheritance or gift of non-listed stocks on and after 1 January 2020. On or after 1 January 2023, the 20% control premium will only be applied to small-to-medium-sized enterprises that fall under the specified groups of companies. (Please see below for the definition of net asset value and net income value for IGTL valuation purposes. If the value of non-listed stock, computed based on the method prescribed under the IGTL, is less than 80% of the adjusted net asset value, 80% of the adjusted net asset value would be deemed as the value of the non-listed stock.
  - Net asset value = total net assets on the valuation date after adjustments (including goodwill computed under the IGTL)
  - Net income value = weighted average adjusted after-tax net income during the preceding three years/discount rate (currently, 10%)
- Virtual asset: valuation method for virtual assets is newly enacted 1 January 2022 – closing price, average of daily price or one-month average of publicly notified price of virtual asset in accordance with Reporting and Using Specified Financial Transaction Information Act

Different weighted ratios may apply for companies that own certain percentages of real estate among the total assets.

6.2 Gift tax

The same rules described in Section 6.1 apply to assessments and valuations for gift tax purposes.

7. Trusts, foundations and private purpose funds

7.1 Inheritance tax

Pension benefits received from a private pension due to the death of the policyholder shall be regarded as an inherited property. Assets held in a trust shall be regarded as an inherited property upon death of the grantor.

The tax laws relating to trusts broadly stipulate that where a person is assigned as a beneficiary of the trust, the settlor is deemed to grant the rights to earn income of the trusted assets to the beneficiary subject to gift tax. However, on or after 1 January 2021, inheritance tax, not gift tax, will be applied to specific types of trusts: for a living trust, inheritance tax is levied as it is viewed as substitute for will, and for a trust with successive beneficiaries, inheritance tax is levied up to the value of rights that each relevant beneficiary has.

7.2 Gift tax

If the beneficiary of a private pension and the payer of contributions are different, the private pension benefits received shall be deemed as a property donated to the beneficiary.

8. Grants

Inherited and donated property contributed to a person operating a business for religious, charitable, academic or other purposes of public good (hereinafter referred to as a public service corporation) shall not be subject to inheritance or gift tax. In cases where all or part of the benefits arising from inherited or donated property, which have been excluded from the taxable amount of inheritance or gift tax, are not used for purposes of the public good in an appropriate manner, inheritance and gift tax shall be immediately levied on the excluded amount.

8.1 Inheritance tax

Property contributed by the deceased or the beneficiary to a person operating a public service corporation shall not be included in the taxable amount of inheritance tax if the contribution is made within six months from the commencement of inheritance. However, when shares with voting rights of a domestic corporation are contributed to a public service corporation and the shares contributed, together with those held by the public service corporation, etc., exceed 5% of the total number of the shares, the excess shall be added to the taxable amount of inheritance tax. The threshold (i.e., 5% of the total number of the shares) may increase to 10% or to 20% if the contribution is made to qualified public service corporations as prescribed by the Presidential Decree of the IGTL.

In cases where property is not included in the taxable amount of inheritance tax and all or part of the benefits arising from such property belong to the beneficiary or a person(s) having a special relationship with the beneficiary, inheritance tax shall be immediately levied on the amount.

Property contributed by the deceased or the beneficiary to a public service corporation via a public trust pursuant to the Trust Act (i.e., a trust for religious, charitable, academic or other purposes of public good) shall not be included in the taxable amount of inheritance taxes.

8.2 Gift tax

Donated property contributed to a public service corporation shall not be included in the taxable amount of gift tax. However, when shares with voting rights of a domestic corporation are contributed to a public service corporation and the shares contributed, together with those held by the public service corporation, etc., exceed 5% of the total number of the shares, the excess shall be added to the taxable amount of gift tax if 80% of income arising from the property (effective on or after 1 January 2021) or 1% of donated property (effective on or after 1 January 2022) has not been used, etc. The threshold (i.e., 5% of the total number of the shares) may increase to 10% or to 20% if the contribution is made to qualified public service corporations as prescribed by the Presidential Decree of the IGTL.

In cases where property is not included in the taxable amount of gift tax and all or part of the benefits arising from such property are not being operated pursuant to the Presidential Decree of the IGTL (e.g., the property is being used for purposes other than for the public good), gift tax shall be immediately levied on the amount.

Property contributed by the donor to a public service corporation via a public trust pursuant to the Trust Act (i.e., through a trust for religious, charitable or academic purposes, or for purposes other than for the public good) shall not be included in the taxable amount of gift taxes.

9. Life insurance

9.1 Inheritance tax

When the beneficiary receives insurance proceeds from life or accident insurance due to the death of the policyholder, insurance proceeds shall be regarded as an inherited property if: (i) the policyholder is the deceased, or (ii) the deceased has paid the insurance premium even when the deceased is not the policyholder.

9.2 Gift tax

If the beneficiary of insurance proceeds and the payer of premiums are different in a life insurance or nonlife insurance policy, the insurance money shall be deemed to be donated to the beneficiary as of the date when the incident triggering the payment of insurance proceeds happens (including the expiration of the insurance policy).

10. Civil law on succession

This is not applicable for individuals in Korea.

11. Estate tax treaties

Korea has not entered into any estate tax treaties.

Spain

EY contact:

Barcelona

EY Abogados SL
Av. Sarrià 102-106
08017 Barcelona
Spain

Antoni Murt Prats
antoni.murtprats@es.ey.com
+34 630 010 585

1. Types of tax

1.1 Inheritance and gift tax

According to the Spanish Inheritance and Gift Tax (IGT) Law, this tax is levied on the acquisition by individuals of assets (whether tangible or intangible) by virtue of inheritance (mortis causa), donation (*inter vivos*) or life insurance policies where the payer of the premium and the beneficiary are different persons (subject to certain exceptions).

IGT is a national tax; however, the power to legislate some aspects that have a direct impact on the quota to be paid has been transferred to the regional governments. Indeed, many regions have approved lower tax rates, reductions and other benefits that significantly reduce the tax burden. Because of this, effective inheritance taxation is much higher under national law than under regional regimes.

Additionally, the regions of Navarre and Basque Country have a wide right to self-regulate IGT. Taxation in these regions is significantly different from the mainstream Spanish tax laws.

Historically, regional law was not applicable when nonresidents were involved (when the deceased, heir or donee was a nonresident or when the real estate was located outside of Spain). If so, national law applied in any case, with nonresident individuals being generally subject to a much higher tax burden only because of their nonresident status. However, the Court of Justice of the European Union (CJEU) ruled against Spanish IGT in a 3 September 2014 judgment (Case C-127/12), concluding that the Spanish IGT rules breached the EU Treaty principle of free movement of persons since only Spanish residents were permitted to apply regional tax benefits. As a result of this judgment, Spain has amended its IGT Law and now EU/European Economic Area (EEA) residents are entitled to apply regional rules.

Please note that the Spanish High Court (Judgment 19.02.2018) concluded that the European free movement of capital principle as established in Article 63 of Treaty of the Functioning of the European Union should apply also to third countries. Also, the tax authorities confirmed these criteria in ruling V3151-18. The Spanish government extended the IGT benefits under regional rules to any individual, regardless of whether resident in Spain, the EU/EEA or another country.

1.2 Real estate transfer tax

The transfer of real estate by inheritance or gift is exempt from Spanish real estate transfer tax.

1.3 Endowment tax

No endowment taxes are levied in Spain. Nevertheless, generally, donations made to charitable foundations (meeting certain requirements and pursuing special charitable purposes) would allow the donors to claim a tax credit for income tax purposes, as follows:

- If the donor is a corporation, then a corporate income tax relief ranging from 40% to 50% on the amount donated could be applied if certain requirements are met, such as the corporation has donated the same amount in the two previous tax years. Nevertheless, the tax base of the deduction cannot exceed 15% of the period's total taxable base. Nondeducted amounts due to an insufficient tax quota can be applied during the next 10 years.
- If the donor is an individual, then a personal income tax relief ranging from 80% (to apply on the first EUR250) to 40% (amounts exceeding EUR250) on the amount donated is available, with the tax base of the deduction also subject to the limit of 10% of the period's total taxable base. If the donor has contributed to the same charitable organization in the two previous tax years, the tax relief ranges from 80% (to apply on the first EUR250) to 45% (amounts exceeding EUR250).

1.4 Stamp duty

Spain levies a stamp duty tax upon signature of a public deed, notarial documents and documents that could be registered in an official Register, such as the Land Register, with rates ranging from 0.1% to 3%, depending on the nature and circumstances of the transaction involved. Autonomous Communities[1] are empowered to apply different tax rates and exemptions.

However, successions and gifts are exempt from Spanish stamp duty.

1.5 Net wealth tax

Net wealth tax (NWT) is an annual tax levied on the net worth of individuals at 31 December of each year. Wealth subject to this tax is defined as all the assets and rights that can be economically valued, less all the burdens, encumbrances or debts that the individual may have and that effectively reduce the wealth.

If the individual is resident in Spain, NWT is levied on a worldwide basis, whereas nonresident individuals are only subject to NWT on their Spanish-located assets.

Spanish NWT was previously abolished in Spain, but the Spanish government decided to reinstate the tax initially for years 2011 and 2012 and then extended it through to 2021 and beyond.

The revenue from the Spanish NWT is entirely devolved to the Autonomous Communities. As a result of the transfer, these regions have the capacity to set their own tax rates and allowances within certain limits, leading to different NWT liabilities.

[1] In Spain, Autonomous Communities are territorial entities with their own institutions and certain legislative, executive, and administrative power.

1.6 Solidarity tax on large fortunes

In December 2022, the Spanish Central Government introduced a new tax called "Temporary solidarity tax on large fortunes," (ST) which was complementary to the regional NWT. The purpose of this new tax was to prevent large differences in taxation between the various regions in Spain. Therefore, contrary to the NWT, this tax is collected by the State and Spanish regions may not approve their own tax rates or allowances.

ST applies to Spanish residents and nonresidents and is levied on net wealth above EUR3 million, as of 31 December of each year. Since this tax is complementary to NWT, taxable income is determined by an individual's net assets in the same terms as in NWT, meaning that valuation and exemption rules are similar to those in NWT. For double-taxation purposes, amounts paid in NWT can be deducted from the amount to be paid in the ST.

ST was initially set as a temporary measure for 2022 and 2023 and it had a significant impact on those taxpayers residing (or having the majority of their assets) in regions with 100% tax relief on NWT, such as Madrid or Andalusia.

On 27 December 2023, the Central Government approved a Decree by virtue of which ST has now been extended indefinitely. With this measure, numerous regions in Spain have introduced significant changes in their NWT regulations, in order not to lose revenue derived from this tax, while ST is in force.

2. Who is liable?

2.1 Inheritance and gift tax

IGT legislation in force in Spain imposes gift and inheritance tax on donees, heirs or insurance beneficiaries regardless of the tax residence of the donor, deceased or payer of the policy premiums.

Taxpayers are the heir, the donee or the beneficiary. Tax liability will depend on whether the IGT taxpayer is a Spanish resident or not, as follows:

Worldwide taxation

Spanish-resident taxpayers are liable to IGT on their share in the estate of the deceased or the assets donated or the life insurance benefit, regardless of where the assets or rights received were located/exercisable (worldwide principle).

IGT on Spanish-located assets

Nonresident taxpayers are only liable for IGT on the Spanish-located assets acquired by virtue of inheritance or donation, or where the insurance policy is entered into with a Spanish insurance company or concluded in Spain with a non-Spanish insurance company.

Shares in foreign companies are deemed foreign situs assets for Spanish IGT purposes, even if their main assets are Spanish-situs real properties. In the past, the Spanish tax authorities had ruled otherwise on more than one occasion, claiming that, for IGT purposes, shares in foreign entities whose main assets were Spanish real estate properties, were deemed to be Spanish-situs assets. However, in a recent ruling the Spanish tax authorities have confirmed that shares in foreign entities are not subject to IGT, irrespective of the underlying assets the company have (V1207-23).

2.2 Net wealth tax

Spanish tax residents are liable for NWT on their worldwide assets and rights (worldwide principle) at 31 December each year.

Non-Spanish tax residents are subject to NWT on their assets located or exercisable in Spain. Historically, national law (instead of regional law) was applicable in those cases. However, because of the 2015 and 2021 Tax Reforms, EU and non-EU residents are now able to apply the rules of the region where most of their wealth is located or exercisable in Spain (the most common case is nonresidents holding properties in Spain).

Additionally, in 2022 a change in NWT law introduced a rule covering the taxation on indirect ownership of real estate properties in Spain through foreign structures. Such rule only applies if at least 50% of the total value of that nonresident company corresponds to real estate located in Spain. Therefore, a nonresident could be taxed under NWT on shares in a foreign entity whose main assets are direct or indirectly Spanish properties if the applicable DTT gives the right to Spain to tax such indirect ownership structures.

2.3 Solidarity tax on large fortunes

Spanish tax residents are liable for ST on their worldwide assets and rights (less burdens, encumbrances or debts) as of 31 December each year.

ST is also applicable to nonresidents, who will be taxed on their assets located or exercisable in Spain.

2.4 Residency

An individual is generally deemed to be Spanish resident if either of the below conditions are met:

(a) The individual is physically present in Spanish territory for more than 183 days per year. Sporadic absences are considered as days spent in Spain for computing this period, unless the individual evidences the tax residence in another country for more than 183 days during a calendar year. This evidence must be in the form of a certificate from the foreign tax authorities pursuant to a double-tax treaty.

(b) The main center of the individual's activities or economic interests is located in Spain, either directly or indirectly.

Unless evidenced otherwise, an individual will be deemed tax resident in Spain if his/her legal wife or husband and minor dependent children are tax resident in Spain.

It is important to note that in Spain it is not possible to split the residency in a calendar year between two jurisdictions (an individual can only have one qualification of tax residency in a calendar year, either as a resident or a nonresident in Spain).

2.5 Spanish territoriality rules applicable to IGT

As a result of the 3 September 2014 judgment of the CJEU and of the Spanish High Court Judgment (19.02.2018) IGT rules were amended and new connection points were introduced to enable both EU- and non-EU-resident taxpayers to apply regional rules, as follows.

Inheritance tax

In the case of inheritance, bequest or other type of successions, if the deceased had not been a Spanish tax resident, a beneficiary who is either a Spanish tax resident or nonresident will be allowed to apply the rules approved by the region where the highest value of the assets (and rights) forming part of the estate were located.

In those cases where the deceased was resident in a Spanish region, non-Spanish tax residents will be allowed to apply the rules of the region in which the deceased was resident. Regarding the amounts received by the beneficiaries derived from life insurance contracts, when such amounts should not be added to the taxable base for inheritance tax purposes, non-Spanish tax residents will be allowed to apply the rules approved by (i) the region where the registered office of the Spanish life insurance company was situated, or (ii) the region in which the foreign life insurance company had concluded the relevant contract.

Gift tax

In the case of acquisition of movable property situated in Spain by gift or any other *inter vivos* gratuitous transfer, non-Spanish tax residents will be allowed to apply the rules approved by the region where the referred movable assets had been situated for a greater number of days during the five-year period prior to the taxable event.

In the case of acquisition of real estate property located in Spain, non-Spanish tax residents will be allowed to apply the rules approved by the region where the real estate property was situated.

In cases where real estate is located outside Spain, Spanish tax residents will be allowed to apply the rules approved by the region in which they reside. For this purpose, a Spanish tax resident will be considered a resident of any region provided that such individual had been a resident in that particular region for a greater number of days during the five-year period prior to the taxable event.

3. Rates

3.1 Inheritance and gift tax

If the Autonomous Region has not approved a progressive tax scale or if its specific regulations do not apply to the taxpayers, the taxable base is taxed (both for gift and inheritance tax purposes) by application of the following progressive scale:

Up to (EUR)	EUR	Remaining (EUR)	%
0.00	0.00	7,993.46	7.65
7,993.46	611.50	7,987.45	8.50
15,980.91	1,290.43	7,987.45	9.35
23,968.36	2,037.26	7,987.45	10.20
31,955.81	2,851.98	7,987.45	11.05
39,943.26	3,734.59	7,987.46	11.90
47,930.72	4,685.10	7,987.45	12.75
55,918.17	5,703.50	7,987.45	13.60
63,905.62	6,789.79	7,987.45	14.45
71,893.07	7,943.98	7,987.45	15.30
79,880.52	9,166.06	39,877.15	16.15
119,757.67	15,606.22	39,877.16	18.70
159,634.83	23,063.25	79,754.30	21.25
239,389.13	40,011.04	159,388.41	25.50

Up to (EUR)	EUR	Remaining (EUR)	%
398,777.54	80,655.08	398,777.54	29.75
797,555.08	199,291.40	Excess	34.00

The resulting gross tax should be further increased by application of certain additional coefficients, which consider the acquirer's net wealth prior to the acquisition,[2] as well as his or her relationship with the donor/deceased (as per the groups described in Section 4.1).

Deceased/donee's pre-existing wealth (EUR)	Group (family relationship)		
	I and II	III	IV
From 0 up to 402,678.11	1.0000	1.5882	2.0000
Over 402,678.11 up to 2,007,380.43	1.0500	1.6676	2.1000
Over 2,007,380.43 up to 4,020,770.98	1.1000	1.7471	2.2000
Over 4,020,770.98	1.2000	1.9059	2.4000

Therefore, the effective maximum rate may reach 81.60% (i.e., maximum general rate: 34% x maximum personal coefficient: 2.4 = 81.60%).

These rates have been slightly modified in certain Autonomous Communities.

Other key aspects

- Gifts to the same donee within a three-year period are treated as single gifts; gifts to heirs within a four-year period are added to the taxable basis for inheritance tax purposes.
- There are special rules governing life and temporary usufructs created by reason of inheritance or donation.
- Significant reductions may apply to family business transfers and/or art collections within families.
- Foreign tax relief is available to avoid double taxation.
- With certain exceptions, gifts trigger capital gains in the hands of the donor for personal income tax purposes, computed as the difference between the acquisition cost and the market value of the assets donated.
- No income or capital gains are deemed to arise in the hands of the deceased for personal income tax purposes on the difference between the acquisition cost and the market value of the assets comprised in the estate.
- Some of the main characteristics of regional IGT rules include:
  1. Balearic Islands has eliminated taxation (100% tax relief) in cases of inheritance by Group I and II acquirers (descendants of any age, spouse and ascendants).
  2. Murcia extended the 99% tax relief in the inheritance tax liability to Group III acquirers.
  3. Andalusia and Madrid have almost eliminated taxation (99% tax relief) in cases of inheritance and donation by Group I and II acquirers (subject to formal requirements).
  4. In Andalucia, a reduction on the inheritance tax up to EUR1 million is granted for Groups I and II, and EUR10,000 is approved for Group III.
  5. Cantabria eliminated taxation in cases of inheritance by Group I and II acquirers (100% relief). In 2024, another tax relief of 50% is introduced for inheritances when the acquirer is a second-degree collateral relative by consanguinity.
  6. La Rioja applies a 99% tax relief in case of inheritance by Group I and II acquirers. In 2025, this 99% tax relief would be also applicable to acquirers who have maintained a stable cohabitation in the same residence by consanguinity.
  7. Catalonia maintains the 99% tax relief in case of inheritance by the spouse. For all other heirs, the relief is reduced progressively as the taxable base increases. Reduced tax rates of 5%/7%/9% apply on donations for Groups I and II (subject to formal requirements).
  8. Aragon introduced a 99% tax relief for Group I acquirers. For Group II acquirers the tax relief increased from 65% to 99% if the taxable base is equal or less to EUR500,000.

[2] The net wealth prior to the acquisition is calculated according to Spanish NWT provisions (see Section 1.5).

9. Valencia has almost eliminated taxation (99% tax relief) in cases of inheritances and donations by Group I and II acquirers.
10. Galicia provides a EUR1 million exemption in case of inheritance by the spouse, ascendants or descendants.
11. In the Canary Islands there is a 99.9% tax relief in inheritance tax for Group I, II and III acquirers. For donations, the 99.9% tax relief only applies to Group I and II acquirers.
12. In 2021, the Anti-Fraud Law entered into force and established the so-called "reference value" to be used as the new real estate valuation system that differs from the traditional one for inheritance and transfer tax purposes.

With regard to Basque Country and Navarre, transfers between families are generally advantageous due to reduced rates.

3.2 Net wealth tax

NWT tax rates under national law are as follows (note that some regions have higher rates up to 3.75%):

Up to (EUR)	EUR	Remaining (EUR)	%
0.00	0.00	167,129.45	0.2
167,129.45	334.26	167,123.43	0.3
334,252.88	835.63	334,246.87	0.5
668,499.75	2,506.86	668,499.76	0.9
1,336,999.51	8,523.36	1,336,999.50	1.3
2,673,999.01	25,904.35	2,673,999.02	1.7
5,347,998.03	71,362.33	5,347,998.03	2.1
10,695,996.06	183,670.29	Excess	3.5

Other key aspects:

As a consequence of the amendments in ST, some regions have modified their NWT regulations to streamline taxation through regional NWT and prevent reliance on the ST. Thus, the most significant regional changes in the NWT have been the following:

1. In Balearic Islands, the individual minimum threshold has been increased from EUR700,000 up to EUR3 million. This applies to nonresident taxpayers as well. Nonresidents with real estate in Balearic Islands whose net value for NWT purposes is below EUR3 million will be exempt from NWT from 2024 onward.
2. In Andalusia, while the ST is in effect, the taxpayer has the option to choose between (i) the application of a 100% relief on NWT liability, or (ii) the deduction of the difference between NWT and ST liability.
3. In Madrid, the tax relief would be the difference between the WT liability and ST liability. Therefore, those taxpayers with an NWT value below EUR3.7 million would not be liable under ST and the WT relief would be 100%.
4. In Valencia, the regional government has aligned the NWT scale with ST tax rates. The maximum NWT rate is now 3.5%, down from the previously approved 3.75%.
5. In Aragon, the individual minimum threshold has been increased from EUR400,000 up to EUR700,000. This only applies for Spanish tax residents.
6. Galicia: increase in the tax rate corresponding to the last bracket of the regional tax scale to align it with the maximum rate established in the ST (the marginal rate is raised from 2.5% to 3.5%). Limits are set on the application of the regional tax relief of 50% on the full tax liability of the WT. Specifically, for those taxpayers subject to the ST the amount of the 50% discount on the full tax liability of the NWT will be reduced by the amount that would be payable to ST.
7. Murcia: the individual minimum threshold has been increased from EUR700,000 up to EUR3.7 million.
8. Cantabria has eliminated taxation (100% tax relief) in cases where the taxpayer is not subject to the ST.

As a result of these changes, nonresident taxpayers should not expect additional ST liability. Additionally, due to increased minimum thresholds for NWT in certain regions, taxpayers with net values below these thresholds will be exempt from both ST and NWT.

3.3 Solidarity tax on large fortunes

ST tax rates are as follows (first EUR3 million are tax-free):

Up to (EUR)	EUR	Remaining (EUR)	%
0.00	0.00	3,000,000	0
3,000,000	0.00	2,347,998.03	1.7
5,347,998.03	39,915.97	5,347,998.03	2.1
10,695,996.06	152,223.93	Excess	3.5

The ST is a state tax that applies to all regions in Spain.

4. Exemptions and reliefs

4.1 Inheritance and gift tax

The taxable value of the acquisition by the taxpayer is determined by taking into account the fair market value (FMV) of the assets forming part of the estate or donation, or the benefit from the life insurance policy.

Encumbrances and liens attached to the assets of the estate or donation, along with the liabilities transferred by the deceased or donor and certain debts and expenses related to the deceased, may be deducted.

The resulting amount is further reduced, regardless of the residence status of the acquirer, by application of certain allowances in cases of inheritance or life insurance benefits, as follows:

- Reductions on inheritance, depending on the family relationship between the heir and the deceased, as follows:
  - Group I: descendants under 21: EUR15,956, plus EUR3,990 for each year the descendant is under 21 years – total reduction may not exceed EUR47,858
  - Group II: descendants older than 21, spouse and ascendants: EUR15,956
  - Group III: ascendants and descendants by affinity (second- and third-degree collaterals (brothers and sisters, uncles and aunts, nieces and nephews)): EUR7,993
  - Group IV: others: no reduction
  - Disabled acquirers: EUR47,858 or EUR150,253 – disability is determined according to Spanish social security regulations
  - Acquisition of the principal private residence by close relatives: 95% of the real estate value, up to an amount of EUR122,606
- Benefits deriving from life insurance policies may be reduced by 100% up to a maximum amount of EUR9,195 where the beneficiary is the spouse, ascendant or descendant of the payer of the premiums[3]
- Acquisition of qualified shareholdings in family-owned operating companies by certain relatives (including the spouse of the deceased or donor): this reduction is applicable, up to 95% of the shares' value, provided that several requirements are met, including that the conditions required for NWT exemption are met as of the date of death. This reduction also applies to donations, subject to the fulfillment of additional requirements. The reduction is conditioned to the beneficiary not transmitting the shares in a 10-year period

In case of gifts, the exemptions are generally reduced to the acquisition of qualified shareholdings in family-owned operating companies by certain relatives and to the acquisition of Historical Heritage assets, giving more legislative power to the Autonomous Communities.

[3] There are a number of transitional measures applicable to life insurance policies contracted before 19 January 1987.

4.2 Net wealth tax

There is a general threshold of EUR700,000 (lower in some regions and higher in others due to the introduction of ST) available for each taxpayer, either resident or not resident in Spain. As a result, taxpayers with taxable assets below EUR700,000 will not be subject to NWT. Nevertheless, NWT rules provide that individuals whose assets and rights' values are above EUR2 million are obliged to file the NWT return, even though the resulting tax liability is zero.

In addition, the law exempts from NWT certain assets and rights, among others:
- Habitual dwelling: each taxpayer has an exemption on the first EUR300,000 of the value of property (lower in some regions)
- Family business relief: there is a total exemption for family businesses under certain requirements, and as a result, owners of qualifying family businesses might not be taxed under NWT on their shares
- Business assets and property needed for the exercise of a profession or an activity, under certain requirements
- Works of art: provided that certain requirements are met, and the National Heritage regulations are complied with
- Household items (with some exceptions, such as jewelry or certain types of leather)
- The amounts saved through a retirement or pension plan

4.3 Solidarity tax on large fortunes

The ST exemption regime is the same as the one in NWT (described above) since the government extended the minimum threshold of EUR700,000 for both Spanish tax residents and nonresidents in December 2023. Prior to this modification, the general threshold of EUR700,000 was only applicable for Spanish tax residents. Considering that the first EUR3 million are tax free, this means that now, ST will be paid when the net value of the assets is above EUR3.7 million for both residents (worldwide) and nonresidents (only for Spanish-located assets).

5. Filing procedures

5.1 Inheritance and gift tax

Generally, IGT returns must be filed by the legal deadlines as follows:
- In cases of inheritance or life insurance policies (Form 650): six months from the date of death.
- Donations (Form 651): 30 days from the date of the gift

However, some regions have established a self-assessment procedure. Where this procedure is applicable, tax must be paid upon filing.

Autonomous Communities have their own tax forms for gift and inheritance tax purposes. These must be used whenever the region is entitled to collect the tax.

5.2 Net wealth tax

NWT taxpayers must file an annual tax return (Form 714) no later than 30 June of each year in connection with the period of the previous calendar year, along with the payment of the amount of tax due.

5.3 Solidarity tax

ST taxpayers must file an annual tax return (Form 718) no later than 31 July of each year in connection with the period of the previous calendar year, along with the payment of the amount of tax due.

6. Assessments and valuations

6.1 Inheritance and gift tax

The tax assessment basis for the Spanish inheritance and gift tax is the fair market value of the inherited or donated assets.

6.2 Net wealth tax

The valuation of assets and rights must be performed according to specific rules. For instance, a property is valued at the highest of: (i) the acquisition value, (ii) the cadastral value or (iii) the value determined by the tax administration for other tax purposes.

7. Trusts, foundations and private purpose funds

Trusts are institutions alien to Spanish civil and tax laws. Additionally, Spain is not a signatory to the Hague Convention of 1 July 1985 on the law applicable to trusts and on their recognition. Because of this, inheritances or gifts involving trusts are directly attributed to the individuals involved and must be carefully analyzed, as it is extremely complex to determine their Spanish tax and legal status.

8. Grants

This is not applicable in Spain.

9. Life insurance

Life insurance policies in which the payer of the premium and the beneficiary are two different persons will be subject to inheritance tax (subject to certain exceptions).

Benefits deriving from life insurance policies may be reduced by 100% up to a maximum amount of EUR9,195 when the beneficiary is the spouse, ascendant or descendant of the payer of the premiums.

10. Civil law on succession

10.1 Estate planning

Relevant international private law issues

Several regions in Spain have their own civil law system, which is applicable to individuals whose residence, according to Civil Code rules, is in the region. However, we shall refer below to mainstream Spanish legislation only.

International private rules are applicable in the whole of Spain, regardless of the region where the individuals have their residence.

Inheritance

Generally, the national law of the deceased governs his or her succession, regardless of whether there is a will or not and regardless of the place of domicile or residence of the deceased. Only in the case of married individuals are forced heirship rights of the surviving spouse ruled by the law governing the marriage (see below) but always observing the forced heirship rights of the descendants.

Dual citizenship status is not recognized by Spanish legislation, with the sole exception of South American countries, Andorra, Portugal, the Philippines and Equatorial Guinea. Consequently, an individual who holds dual Spanish and another citizenship (other than the above) will be deemed Spanish for the purposes of determining the law governing his or her succession.

The fact that several jurisdictions (e.g., England and Wales) remit to Spanish succession laws regarding Spanish property of its citizens has given rise to complex lawsuits in Spain, where the plaintiff has claimed the application of Spanish forced heirship rules to the inheritance of Spanish-located real estate held by a foreign deceased person.

Although this is still a debatable issue, the mainstream position of the Spanish courts may be summarized as follows:
- The Spanish Civil Code only accepts remissions made by foreign law where the foreign conflict rule remits back to the Spanish law. Spanish courts will never accept remissions to third countries' laws.
- The Spanish Supreme Court has issued several case law decisions regarding remissions to Spanish law in cases of inheritance of Spanish-located properties where the deceased was a non-Spanish citizen. In general, remission to Spanish succession law is acceptable provided that the whole succession is governed by the law of only one country (Spain). Consequently, and generally, the Spanish courts would not accept that the succession by reason of death is governed both by the Spanish law regarding certain items of the estate (Spanish properties, for instance) and foreign laws with regard to the remaining assets.

10.2 Succession

The rights to the estate of a person are transmitted from the time of his or her death. The inheritance includes all assets, rights and obligations of a person, not extinguished by his or her death. Succession defers to the will of an individual expressed in a will and, failing that, by law. The first is called probate, and the second legitimate. It may also be conferred in part by the will of an individual, and another by law.

10.3 Forced heirship

According to the Spanish Civil Code, forced heirship rules are as follows:
- Children and other descendants are entitled to two-thirds of the estate. One-third must be split equally among all children and the other one-third may be freely given to any of the descendants (children or grandchildren). When a child has died, leaving his or her own descendants, the portion of the estate attributable to the deceased children passes on to his or her descendants.
- If there are no descendants, ascendants are entitled to one-half of the estate, if there is no surviving spouse. If there is a surviving spouse, the ascendants' compulsory share is one-third of the estate.
- The surviving spouse's rights over the estate are as follows:
- If there are descendants, the surviving spouse has a right of usufruct over one-third of the estate.
- If there are no descendants, but there are ascendants, the surviving spouse has a right of usufruct over one-half of the estate.
- If there are neither descendants nor ascendants, the surviving spouse has a right of usufruct over two-thirds of the estate.
- Special rules apply in the case of separated couples.

The balance may be freely disposed of by will.

10.4 Matrimonial regimes and civil partnerships

Marriage

According to the Spanish Civil Code, a marriage is ruled by the following principles:
- The common national law of the spouses
- If there is no common citizenship, by the law of the citizenship or residence of either of the spouses, stated in a public deed before the marriage
- Failing this, by the law of the first common domicile after the marriage
- Finally, failing this, by the law of the place of celebration of the marriage

Additionally, before 1991, other conflict laws were in force (generally the husband's national law ruled the marriage), which has caused complex case law.

According to the Spanish Civil Code, the spouses can freely choose the economic regime of the marriage before the marriage or change it during the marriage.

If they do not make an express selection, a joint ownership (*sociedad de gananciales*) will apply.[4] Under this regime, income or gains obtained by any of the spouses during the marriage are made common to both.

Both spouses manage common goods jointly. Any asset acquired by any of the spouses under the community regime is deemed to be common to both, unless it is duly proved that it has been acquired using money or goods that only belong to one of the spouses. Each of the spouses will, however, keep sole property, inter alia, over the following assets (*bienes privativos*)[5]:
- Assets held before the marriage is celebrated or the community regime is established
- Assets received by inheritance or donation
- Assets received in exchange of other *bienes privativos*

Nevertheless, the gain derived from the sale of an individual right is common to both spouses. Additionally, special rules apply to the main family home.

A separate property regime (*separación de bienes*) is selected by a growing number of couples, especially by high-net-worth individuals (HNWIs). In addition, this regime is applicable by default in Catalonia and the Balearic Islands. If this regime is applicable, each spouse has his or her own separate possessions, which are managed individually.

10.5 Intestacy

Testamentary documents and intestacy

A will is a legal document that regulates an individual's estate after death. Spain is a member of the Hague Treaty of 5 October 1961 regarding will formalities, and consequently, will accept the formal validity of a will drawn under:
- The laws of the deceased's domicile, nationality, place of residence at the time of execution of the will or at death
- The laws of the place where the will has been executed
- The laws where real estate is located, but only regarding real estate

[4] That is, spouses who marry without a marriage contract have a joint estate by law.

[5] Assets owned individually by one spouse, and not subject to the community of property regime.

If there is no valid will at death, then the deceased's estate passes under predetermined rules known as intestate succession in the following order:

- Children and other descendants (observing forced heirship rules applicable to the surviving spouse)
- Ascendants (observing forced heirship rules applicable to the surviving spouse)
- The surviving spouse (special rules apply in the case of separated couples)
- Other relatives, up to the fourth degree (uncles, aunts, nephews, nieces and cousins)
- The Spanish state

10.6 Probate

The act by which a person disposes of assets or part thereof after their death is called a will. The testator may dispose of his or her property by inheritance or legacy. A will is a personal act: its formation cannot be left, in whole or in part, at the discretion of a third party or made by commissioner or agent.

An individual that has no forced heirs may dispose by will of all his or her property or part thereof for any person having capacity to acquire them.

An individual having forced heirs may only dispose of property in the manner and within the limitations set out in the forced heirship rules stated before (one-third of the state).

11. Estate tax treaties

11.1 Unilateral rules

This is not applicable in Spain.

11.2 Double-taxation treaties

For inheritance and gift tax, Spain has concluded estate tax treaties with France, Greece and Sweden.

However, regarding NWT, Spain has a large network of international treaties to avoid double taxation on income. Most of these treaties include NWT provisions.

Sweden

EY contacts:

Stockholm

EY
Hamngatan 26
P.O. Box 7850
Stockholm 111 47
Sweden

Elisabeth Granhage
elisabeth.granhage@se.ey.com
+46 70 315 8826

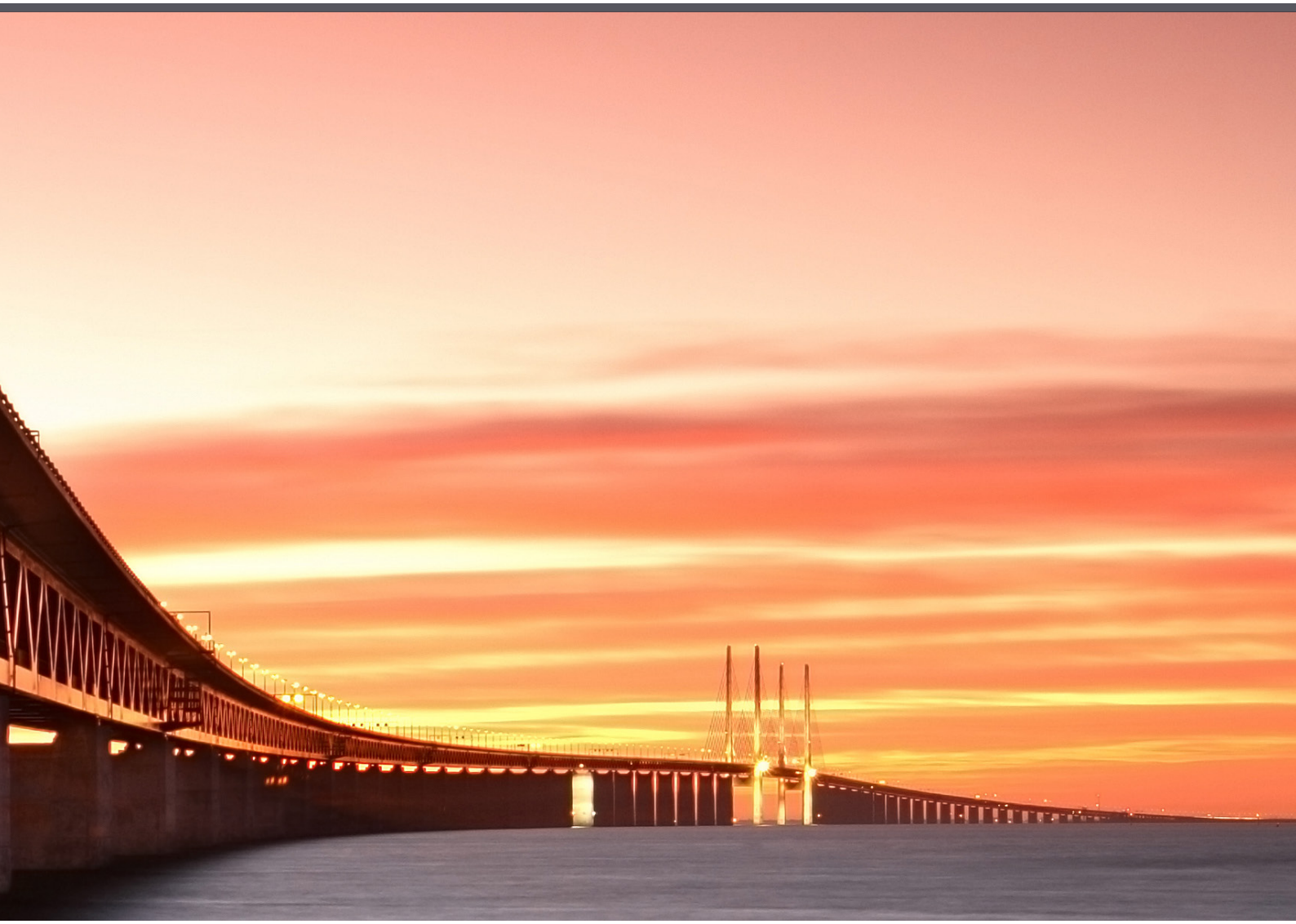
1. Types of tax

1.1 Inheritance tax

The Swedish unified inheritance and gift tax legislation was abolished in 2004. Hence, gifts transferred after 31 December 2004 and acquisitions of property in relation to deaths occurring after 17 December 2004 are not subject to gift/inheritance/tax.

1.2 Capital gains tax

Capital gains on the sale of property such as real estate, securities, artwork and other personal property are taxable in Sweden. The capital gain is calculated as the difference between the proceeds received and the acquisition value of the property. When acquiring property through gift or inheritance, it is necessary to establish the acquisition value for the donor and donee.



In order for a gift to be completed, it is necessary to have it registered in some circumstances, and although gift tax was abolished from 1 January 2005, this can have certain other tax consequences. The transfer of immovable property situated in Sweden must, for instance, be registered with the Swedish Urban Land Administration (*Lantmäteriet*) through applying for registration of a transfer deed. This must be done within three months from the date of the transfer. Similarly, a gift of shares needs to be registered in the shareholders' register, which is either kept by the company itself or by Euroclear Sweden (if listed shares).

Furthermore, on the registration of the transfer of immovable property with the Swedish Urban Land Administration, stamp duty is normally levied. An individual purchasing property is normally liable to pay stamp duty corresponding to 1.5% of the acquisition value. However, transfers on inheritance or gift are not subject to stamp duty, only a registration fee (for 2024, this fee amounts to SEK825).

1.3 Property tax

There is no property tax levied in Sweden on private housing. The tax has been replaced by an annual municipal property fee. However, commercial and industrial buildings are still subject to property tax at a certain percentage of the assessed value.

The municipal property fee is based on the assessed value of the property with a maximum fee of SEK9,525 or 0.75% (for 2024) of the assessed value for single-family houses.

The rules also apply to (i) a plot of land upon which the dwelling is owned by another person (e.g., leasehold), and (ii) dwellings whose assessment value does not exceed SEK50,000. Special rules apply to retired individuals (the fee may not exceed 4% of the yearly income). There is no property fee for individuals owning their apartment by a tenant owner's association.

Individuals pay the full municipal property fee for newly built houses containing dwellings with a value year of 2011 and earlier, from and including the income year 2022. Income year 2021 was the last year with the half-fee system.

As of 1 January 2013, dwellings with assessment year 2012 and thereafter are exempted from the municipal property fee for the first 15 years; the half-fee system is abandoned.

On properties situated outside of Sweden, there is no Swedish property tax or municipal property fee.

1.4 Net wealth tax

There is no wealth tax in Sweden.

Former wealth tax rules were abolished in 2007.

2. Who is liable?

Individuals who are tax resident in Sweden are liable to pay tax on worldwide income and assets.

Furthermore, nonresidents are tax liable on certain income derived from Sweden. For example, capital gain on the sale of immovable property situated in Sweden is taxable in Sweden. Nonresidents are also taxed on capital gains on Swedish shares or foreign shares that were acquired when living in Sweden, if they have been tax resident in Sweden at any time during the 10 calendar years immediately preceding the year in which the transaction occurred. However, tax treaties often shorten the 10-year period.

2.1 Residency/domicile

There are no differences in Sweden between the determination of residency or domicile.

Individuals living in Sweden permanently are regarded as tax resident in Sweden. Furthermore, individuals present in Sweden for a period of 183 days or more in any given 12-month period are regarded as tax resident in Sweden. In addition, those who have previously been tax resident in Sweden may be regarded as tax resident if they have essential ties to Sweden. Such essential ties can, for example, be if you have family, business activity or property in Sweden. According to recent developments in Swedish case law, a person may be considered as having a habitual abode in Sweden, even if the presence in Sweden is less than 183 days. Depending on the current situation, residing more than 90 days in Sweden may be considered a habitual abode. As the matter is based on individual circumstances, an assessment is advisable before entering Sweden. Individuals who neither live in Sweden nor reside there for a period of 183 days or more in any given 12-month period, nor have essential ties with Sweden after moving abroad, are regarded as nonresidents.

3. Rates

3.1 Capital gains – acquisition value

The acquisition value is normally the purchase price when acquiring the property, including costs relating to the purchase, such as costs for real estate agents and stamp duty.

The acquisition cost for equities should be calculated with the "average method." This means that the acquisition costs for all equities of the same type and series are added together and determined collectively, with respect to changes to the holding. For listed shares and funds, etc., the acquisition cost may, as an alternative, be determined as 20% of the net sale revenue under the "standard rule."

When acquiring an asset by gift or inheritance, the beneficiary takes over the acquisition value of the donor or the deceased (the continuity concept). Hence, it is important for the beneficiary to receive information on the price paid by the donor or the deceased for the asset. Special rules apply for gifts given against remuneration.

3.2 Rates

Capital gains are treated as investment income and taxed at a flat rate of 30%, however, the underlying base subject to tax varies depending on the asset.

The taxable base for sales of private real property is 22/30 of the profit, an effective tax rate of 22% (22/30 x 30%) and a loss can be set off against other capital gains with 50% of the loss. The taxable base for sales of business oriented real property is 90% of the profit, an effective tax rate of 27% (90/100 x 30%) and a loss can be set off against other capital gains with 63% of the loss.

Dividends and capital gains deriving from shares are subject to income tax at the date of payment (the cash principle). Dividends and capital gains on listed shares are taxed at full tax rate of 30%. Dividends and capital gains on unlisted shares are taxed at a reduced tax rate of 5/6 x 30%, leading to the effective tax rate of 25%. In summary, only 5/6ths of dividends on unlisted shares in Swedish companies is to be reported for taxation. This rule also applies for foreign legal entities, provided that the company is subject to income taxation comparable with the taxation rules that apply to Swedish companies (*the requirement of comparable taxation*). If not, the dividend shall be fully taxed at 30%. However, the Swedish Supreme Administrative Court (HFD) has stated that the requirement of comparable taxation entails that dividend from foreign companies to private individuals in Sweden are taxed less favorably than dividends from Swedish companies. Therefore, HFD held that this conflicts with EU law and the right to free movement of capital. The Swedish Tax Agency has stated the judgment from HFD shall be interpreted that the more favorable taxation for 5/6th also shall apply on dividend on unlisted shares in a foreign legal company, if the company is subject to income taxation in their domicile.

Capital losses on listed and unlisted shares may be set off against capital income and other income as follows:

- A capital loss on listed shares can be set off against taxable gains on other shares (listed or unlisted) and other similar financial instruments. As mentioned above, dividends and capital gains on unlisted shares are taxable at five-sixths. Consequently, a loss on unlisted shares is also deductible at five-sixths and can be set off against taxable gains on shares (listed or unlisted) and other similarly listed financial instruments.
- Furthermore, 70% of capital losses not set off against such aforementioned gains are deductible from the taxpayer's other capital incomes such as dividends, interest, gain on bonds, etc.

Special rules apply to owners of qualified shares in closely held companies. There are two ways to determine whether a company is considered a closely held company. One is based on the number of owners of the firm (main rule), while the other is regardless of the number of partners (special rule). A share is considered qualified if the shareholder or a relative is active to a significant degree so that his or her activity has a significant influence on the income generated by the company during the income year or any of the previous five income years. Qualified shares are taxable at two-thirds of the dividend and gain at 30% (or, in other words, by 20% of the dividend and gain) to the extent the dividend and gain fits within the calculated threshold amount. Any dividend that exceeds the threshold amount is taxed as income from employment, which can vary from 30% to 54%, up to a limit amount of MSEK6,858 for dividends and MSEK7,620 for capital gains during income year 2024. Capital gains and dividends exceeding the limit amount are subject to a fixed tax rate of 30%. If the company has a silent partner owning at least 30% of the shares, all dividends or gains are taxed at 25%, assuming the silent partner is not related to the active shareholder.

Special rules apply to holdings in mutual fund investments. The tax is a yield tax and the tax rate amounts to 30%. The taxable base is 0.4% of the fair market value (FMV) as of 1 January 2024 (for income tax return 2025). The effective tax rate will therefore be 0.12%.

Sweden has a special type of investment account (*Investeringssparkonto*, or ISK), which is available to private investors investing in listed stock or mutual funds. The investment account is taxed on a standardized basis, calculated as the value of the assets quarterly and transfers during the year of cash or investments. The taxable base is the government borrowing rate on 30 November of the prior year plus 1%, however, it can never be less than 1.25%. The government borrowing rate for income year 2025 (30 November 2024) is 1.96%. The taxable base is consequently 2.96% of the asset value. Capital gains are not taxed, and capital losses are not deductible for investments on this type of account. For nonresidents, tax treaties must be considered.

4. Exemptions and reliefs

Any capital losses not set off against other capital income will be subject to a tax reduction. The reduction can be used against national and municipal tax of employment income and against federal property tax/municipal property fees of the same income year. The tax reduction is 30% on capital losses up to SEK100,000 and 21% on capital losses exceeding SEK100,000. The same rules apply for all taxpayers regardless of age.

If the loss exceeds the taxes from which a reduction is made, it is not possible for individuals to carry forward those "losses."

5. Filing procedures

The estate of individuals regarded as tax resident in Sweden at the time of their death is set out in an inventory of estate. This inventory must be drawn up within three months from the date of the death. The inventory must thereafter be filed with the Swedish Tax Agency within a month, meaning that the inventory must be submitted no later than four months after the time of the death to the Swedish Tax Agency. The inventory lists all assets of the deceased, as well as his or her liabilities at the time of his or her death.

6. Assessments and valuations

Due to the abolishment of net wealth tax and inheritance/gift tax, there are no assessments or valuations in Sweden.

7. Trusts, foundations and private purpose funds

In Sweden, trusts are not recognized as a special type of legal entity. Nor is there any special tax regime regarding payments from family trusts. Such payments could be regarded either as taxable capital income, as an inheritance or as taxable income of employment, depending on how the trust is designed.

8. Grants

Income from grants, such as child allowance, housing grants from the social security office, scholarships, etc., is tax-exempt in Sweden.

9. Life insurance

A Swedish life insurance company is obliged to pay a premium tax on life insurance. Individuals who hold foreign life insurance have to pay Swedish yield tax. From 1 January 2012, the base for yield tax is:

- The value of the insurance on 1 January of the income year
- The value of premiums paid during the first six months of the income year
- Half of the value of premiums paid during the last six months of the income year

The base for the yield tax will be multiplied with the government borrowing rate as of 30 November the year before plus 1%, with a minimum of 1.25%. The government borrowing rate as of 30 November 2024 was 1.96 %; the base for yield tax is therefore 2.96% for income year 2025. The yield tax is 30% of the calculated base for yield tax.

10. Civil law on succession

10.1 Estate planning

There are special rules in Sweden regarding spouses' and cohabitants' common home and household goods. When a marriage or a cohabitant relationship ends, a split of the property has to be made. Estates are normally valued after the taxable value but it can also be agreed upon between the spouses/cohabitants. If the spouses/cohabitants cannot agree who should receive the home, the spouse who needs the home the most will have the right to it. The need of the home is determined with factors such as who will have the custody of the children or if there is any sentimental value to the property (e.g., a family home throughout generations). For the division of cohabitants' household goods, only the household goods that were bought for the purpose of common use are to be included. These rules may be overridden through an agreement between the cohabitants.

10.2 Succession

The succession hierarchy in Sweden is divided into the following three categories:

- Children and grandchildren
- Parents, siblings and their children
- Grandparents, aunts and uncles

In the first category are the direct heirs, i.e., children and their children. If there are heirs in the first category, the third and second will not inherit anything. The property will be split equally among the children. There are no differences made between children born within a marriage or not. If a child of the deceased is dead, the grandchildren will take the place of the deceased child.

If there are no direct heirs in the first category, the parents of the deceased will inherit. If the parents are dead, the siblings will inherit. If the siblings are also dead, the children of the siblings will inherit.

If there are no relatives in the first or second category, the grandparents of the deceased inherit one-quarter each. If the grandparents are deceased, their children, i.e., aunts or uncles, inherit. However, cousins may not inherit.

If the deceased was married at the time of death, the main rule is that the spouse inherits all assets and common children will have to wait until the death of the other parent before receiving their inheritance. The spouse inherits the property with a right of disposal and has no right to make testamentary arrangements for the received property. When the spouse later dies, the heirs of the first spouse will inherit what is left from the property that was left with a right of disposal. If there are children of the deceased that are not the children of the spouse (stepchildren), the stepchildren have the legal right to receive their part immediately (see Section 10.3).

If there are no heirs in either one of the three categories of succession, the estate will be accrued to the Swedish inheritance fund. The foundation has a nonprofit character that works to promote activities supporting children, youths and people with disabilities.

10.3 Forced heirship

Part of an inheritance can be restricted through a will or the statutory share of inheritance for the first category, i.e., children of the deceased (see Section 10.2). The statutory share of inheritance is half of the inheritance property. The children of the deceased have the legal right to inherit half of the deceased's property. The other half of the deceased's estate can be bequeathed away.

10.4 Matrimonial regimes and civil partnerships

Sweden recognizes a community property regime for all property, whether the property was acquired before entering into the marriage or during the marriage. However, the property may be kept separate if declared through a prenuptial contract, or if it was acquired as a gift from a third party or by inheritance on the condition that it should be the separate property of the recipient. A prenuptial contract may be entered into before or after the wedding day. A prenuptial contract has to be registered at the Swedish Tax Agency to be legally binding, and the registration fee is SEK275. A copy of the contract may be requested by anyone and is considered public information.

As to debts, each spouse is responsible for his or her own debts, but spouses are jointly and severally liable to mutual debts.

10.5 Intestacy

To a significant extent, there is freedom of testamentary disposition in Sweden.

However, if the deceased has not left a will, there are legal rules to decide how the estate is divided between the surviving spouse and descendants. Generally, the surviving spouse inherits the deceased's estate.

Furthermore, children always have a right to half of the inheritance from their parents calculated under certain rules (statutory share of inheritance), but generally they do not have access to the property until the surviving spouse is deceased (regarding stepchildren, see Section 10.2). If an individual has bequeathed his or her estate in such a way that less than the statutory share of the inheritance is left in equal shares to his or her children, the children can contest the will. If they do not contest the will, the estate will be divided according to the deceased's will. A will has to be contested within six months from the date when the heir was served the will.

Sweden is party to the EU regulation regarding succession. As party to the new EU regulation, Sweden accepts wills from other Member States. Following the regulation, it is possible to make a choice of law in the will regarding the civil treatment of the will. However, a choice of law does not apply to inheritance tax.

10.6 Probate

A will should be in written form and have two witnesses. The testator should sign the will in the presence of two witnesses, and then the witnesses must sign the will. The witnesses must be above the age of 15 and cannot be the spouse, siblings, parents or children of the testator. Neither brothers-in-law nor close relatives can be the witness of a will. Anyone mentioned in the will is also disqualified as a witness. The witnesses do not have to know the full content of the will, but they need to be aware of it being a will. The will does not have to be registered at any special department in Sweden.

11. Estate tax treaties

11.1 Unilateral rules

This is not applicable in Sweden.

11.2 Double-taxation treaties

Sweden has entered into estate tax treaties with several countries. However, as Sweden has abolished estate tax, gift tax and net wealth tax, from a Swedish perspective these are currently not applicable.

Switzerland

EY contacts:

Zurich

EY
Maagplatz 1
8005 Zurich
Switzerland

Thomas Fisler
thomas.fisler@ch.ey.com
+41 58 286 33 15

Geneva/Lausanne
EY
Place de Pont-Rouge 1
Case Postale 1575
1211 Genève 26
Switzerland

Jean-Marie Hainaut
jean-marie.hainaut@ch.ey.com
+41 58 286 58 51

St. Gallen and Liechtenstein
EY
St. Leonhard-Strasse 76
9001 St. Gallen
Switzerland

Roger Krapf
roger.krapf@ch.ey.com
+41 58 286 21 25

Markus Koch
markus.koch@ch.ey.com
+41 58 286 20 92

Bern
EY
Schanzenstrasse 4a
3008 Bern
Switzerland

Frédéric Bonny
frederic.bonny@ch.ey.com
+41 58 286 62 02

1. Types of tax

Switzerland is a confederation of 26 cantons. In all instances, the cantons maintain autonomy and sovereignty, unless specifically noted by the confederation in the federal constitution. This is especially the case in tax matters. The cantons have their own constitution and may, in turn, confer certain autonomy on the municipalities. In total, there are 27 tax jurisdictions comprising the confederation and 26 cantons.

1.1 Inheritance and gift tax

Nature of the inheritance and gift tax

The cantons have an exclusive right to the exclusion of the confederation to levy gift and inheritance taxes. Neither gift tax nor inheritance tax are levied at the level of the confederation. In some cantons, this taxing power is shared with the municipalities, such as the cantons of Vaud and Graubünden.

The cantons of Schwyz and Obwalden do not levy inheritance or gift tax. The canton of Lucerne does not levy gift tax except when the transfer has taken place within five years before the death of the donor. In this case, the gift is subject to inheritance tax.

In the majority of the cantons, inheritance and gift tax is donee-based and is levied on the net share of the inheritance or legacy passing to the beneficiary (the heir, legatee or the donee). In case of an inheritance, the canton of Solothurn has maintained an estate tax that is imposed on the net value of the decedent's estate.

Although estate tax is levied at a fixed rate on the net value of the decedent's estate, the rate applicable to inheritance and gift tax charged on the beneficiary depends on the net amount received and the relationship between the beneficiary and decedent, the closer the relationship, the lower the applicable tax rate.

Determination of the tax basis

The tax legislation of the 26 cantons contains specific provisions on the valuation of any assets transferred and on allowable deductions (expenses incurred in connection with the death). Reference needs to be made to the local cantonal rules in any particular case.

1.2 Real estate profit tax

Transfer of real estate may generally be subject to real estate profit tax.

Furthermore, real estate transfer tax and/or real estate register costs may apply. Real estate profit tax is levied by the cantons or the municipalities, and therefore the tax legislation may differ in each canton.

Both the direct sale of real estate as well as other similar transactions, such as the sale of a majority of shares (>50%) in a real estate company, are considered as a taxable transfer of real estate. The tax is calculated on the capital gain, and usually a progressive tax rate is applied. For short holding periods, an additional surcharge may be levied depending on the rules of each canton.

If the transfer of real property takes place in the course of an inheritance or gift, then the real estate tax is not levied but deferred until the new owner sells the property. However, such a transfer may be subject to inheritance or gift tax.

1.3 Endowment tax

The incorporation of a foundation or a similar transaction upon death may be subject to inheritance or gift tax (see Section 2). However, Switzerland does not have a separate endowment tax.

1.4 Transfer duty

Generally, there are no transfer taxes in cases of inheritance or gift transactions. However, certain cantons may levy a transfer tax (*Handänderungsabgaben*) if the transferred asset is real estate.

1.5 Net wealth tax

Net wealth tax is levied on the cantonal/communal level, not the federal level. The tax base includes the worldwide assets, with the exception of real estate or permanent establishments located abroad.

The tax rates are reasonably low and vary widely, depending on the canton and municipality where the taxpayer is resident.

2. Who is liable?

The beneficiary of the assets (heir or legatee) is liable to pay the inheritance tax. When there are several heirs, they are usually jointly and severally liable to pay the taxes. Estate tax is levied once at a fixed rate on the net value of the estate.

In the case of a lifetime gift, the donee will be liable to pay gift tax. In certain cantons, the donor is jointly liable with the donee to pay gift tax.

Taxable transfers

Inheritance tax is levied on the share of the inheritance passing from the decedent to the statutory heir or to the heir or legatee specified under the terms of a testamentary document. Inheritance tax is also levied on gifts made in contemplation of death.

The contribution of assets to an existing foundation or to a foundation to be created by a last will is subject to inheritance tax. As the foundation is a legal entity not related to the decedent/testator, the highest tax rate will, in principle, apply. Some cantons, however, apply the rate applicable to the corresponding category of family members provided the foundation will make distributions only to this category of family members. Partial or total exemption may be granted, subject to obtaining a written tax ruling, when the foundation qualifies as a charitable foundation.

The transfer of insurance proceeds that mature at death are subject to inheritance tax, unless they have been subject to income tax. This applies whether or not the proceeds are payable directly to the beneficiary.

Gift tax is levied on *inter vivos* gratuitous transfers of assets and on any transfer of assets made without adequate consideration. In this latter case, gift tax will be imposed on the difference between the fair market value (FMV) of the property transferred and the consideration paid.

The following are also subject to gift tax:
- The *inter vivos* transfer of assets to a foundation
- The transfer of insurance policies that mature during the donor's lifetime
- The forgiveness of a private debt (provided the debtor is solvent)

The disclaimer of an inheritance, the waiver of a right before it has vested or the transfer of assets in fulfillment of a moral duty are, however, not considered as taxable gifts.

Residency/domicile

The inheritance and gift taxes are generally levied by the canton in which the decedent had, or the donor has, his or her legal domicile. In the canton of Solothurn, the inheritance tax is also levied if the procedure of the estate distribution takes place in Solothurn.

The Swiss Civil Law defines legal domicile in cases of inheritance and gift tax as the place in which an individual resided or is residing with the intent of a continuous stay. There is no alternating domicile (as under other Swiss tax laws).

If immovable property is transferred, the canton in which the immovable property is located levies an inheritance and gift tax.

3. Rates

Rates may vary due to the fact that the cantons and municipalities have the right to levy inheritance and gift taxes.

Generally, there are two factors that influence the tax rate: the value of the transferred assets and the degree of relationship of the beneficiary to the decedent or donator.

The tax rates in the different cantons vary from 0% up to 50% (in case of gift or succession in favor of an unrelated beneficiary). A detailed analysis based on the specific facts and circumstances is highly recommended.

4. Exemptions and reliefs

The majority of the cantons currently exempt the spouse/surviving spouse and the children from inheritance and gift tax.

In the cantons of Appenzell Innerrhoden, Neuchâtel and Vaud, transfers to children are still subject to inheritance and gift tax. In all other cantons, they are exempt from inheritance and gift tax.

In certain cantons, such as Zug and Geneva, the parents are also exempted from inheritance and gift taxes.

Government bodies, as well as charitable institutions, are exempt from inheritance and gift taxes. As far as charitable institutions are concerned, exemption (total/partial) is only granted on the basis of a specific tax ruling. No general exemption exists.

5. Filing procedures

Inheritance

The authorities are generally obliged to prepare an estate inventory upon an individual's death.

Depending on the canton, such inventory is usually prepared shortly after the death. The inheritance tax is generally assessed on the basis of such inventory.

Gift

In most of the cantons, gift transfers have to be declared with the authorities by filing a gift tax declaration by the donee (in a few cantons, the declaration has to be filed by the donor). The filing deadline for such declaration may vary in each canton (e.g., for the canton of Zurich it is three months).

The assessment of both inheritance and gift tax is notified to the taxpayer in written form. If the taxpayer does not agree with the assessment, an objection within a defined period (usually 30 days) can be filed.

6. Assessments and valuations

In the majority of the cantons, an estate inventory will provide the basis for the tax assessment. The assessment authority, with the cooperation of the beneficiaries or the beneficiaries themselves, prepares the estate inventory. The beneficiaries are required to file a tax return providing an inventory of the estate.

A tax assessment decision is notified to the beneficiary. The tax assessment decision can be challenged to reconsider and/or appeal to the cantonal judicial or administrative authorities. An ultimate appeal against the final cantonal decision can be brought before the federal Supreme Court.

Inheritance taxes are due within 30 days following the notification of the tax assessment.

Gift taxes are levied on the basis of a donee's self-assessment.

In most cantons, a tax audit can commence at any time within the 10 years following the end of the year of the decedent's death.

7. Trusts, foundations and private purpose funds

Trusts

The concept of trusts does not exist in Swiss civil and tax legislation. Nevertheless, Switzerland has ratified the Hague Convention of 1 July 1985, and the Swiss tax authorities have published guidelines regarding the taxation of trusts in Switzerland.

Taxation of the settlor

A Swiss resident settlor's settlement of assets into a trust may trigger gift/inheritance taxes.

The following criteria will be applied by the tax authorities in examining the trust documents. Swiss tax authorities have elaborated on the autonomous definition of the irrevocability of a trust. A trust is to be considered as irrevocable only if the settlor has not kept any right on the assets (for instance, by being a beneficiary), and cannot exercise power and/or influence on the management of the trust. This definition may lead to situations where a validly set-up irrevocable trust under common law is considered as revocable for Swiss tax purposes.

Revocable trust:

- The ownership of the assets will not be considered to have been transferred. Income and assets of the trust remain taxable in the hands of the settlor, and distributions to the beneficiaries are considered as gifts from the settlor.

Irrevocable trust:

- The ownership of the assets will be considered to have been transferred to the trustee.
- When the trust is of a discretionary nature, the highest gift/inheritance tax rate will apply because the trustee has no relationship to the settlor. However, some cantons may consider the application of family member rates, provided the circle of beneficiaries of the trust is limited to family members.
- When the trust provides for an interest in possession for specific beneficiaries, the competent tax authority may consider that the transfer is made to the beneficiary directly, and the applicable tax rate in such case would depend on the value of the assets transferred and the degree of relationship between the settlor and each beneficiary.

Taxation of the beneficiaries

Beneficiaries of an irrevocable trust who are residents in Switzerland will face income tax and net wealth tax consequences based upon the distributions received.

According to the guidelines issued by the tax authorities, the following general taxing rules will apply:

Distributions/grants out of an irrevocable fixed interest trust:
- Income: taxable as income when received
- Capital gain: not taxable as income – free of tax
- Distribution of the contributed assets – not subject to income tax
- Capital: not taxable as income – free of tax

The beneficiary is taxed as if he or she was a usufructuary, and the share of trust corpus allocable to the income distributed will be subject to net wealth tax.

Distributions/grants out of an irrevocable discretionary trust:
- Income: taxable as income when distributed
- Capital gain: subject to income tax
- Distribution of the contributed assets – not subject to income tax
- Capital: not taxable as income – free of tax

The beneficiary of a discretionary settlement has only a virtual interest, and no share of the trust corpus is allocable to the income received on a discretionary basis and, consequently, no net wealth tax is levied.

Taxation of the trust/trustee

The trust itself is not subject to tax under Swiss tax legislation. This is also the case for a fully discretionary trust in which all the trustees are residents in Switzerland.

Due to the fact that the guidelines have been issued by the tax authorities by reference to civil rather than Anglo-Saxon law concepts, there is most often room for interpretation and approaching the tax authorities on concrete cases leads usually to binding rulings that ensure visibility and certainty in the tax treatment of settlor and/or beneficiaries.

The trustee is considered to hold the trust assets only in a fiduciary capacity and thus is not subject to tax under present Swiss direct tax legislation (income and wealth taxes). However, specific attention must be paid to the effective place of management of non-Swiss companies belonging to the assets of a trust managed by a Swiss trustee.

8. Grants

See Section 7.

9. Life insurance

Under certain circumstances, the transfer of an insurance (e.g., life insurance) may be fully or partially considered in the inventory of the deceased and, therefore, be subject to inheritance tax. Additionally, income tax consequences could result if the transfer is not fully subject to inheritance tax.

Nominating a beneficiary of insurance can result in gift tax consequences.

Due to the numerous insurance products, it is essential to analyze any tax consequences on the specific facts.

10. Civil law on succession

10.1 Estate planning

Pre-immigration trust and lump-sum taxation

In setting up a pre-immigration discretionary trust, a foreign (non-Swiss) settlor, resident in Switzerland under a lump-sum tax regulation, can achieve a double-tax optimization: distributions out of the foreign trust remain outside of the scope of lump-sum taxation, and the assets irrevocably transferred into the trust no longer form part of his or her estate at death. For the definition of irrevocable trust under Swiss tax practice, please see Section 7 above.

Choice of law to govern succession

A foreign (non-Swiss) citizen who is a resident in Switzerland may choose to have his or her national law applied to his or her estate, thereby circumventing the Swiss civil code forced heirship rules, which might otherwise be an obstacle to flexible succession planning. Such choice must be included in a formally valid will.

10.2 Forced heirship

Upon an individual's death, the heirs are divided into classes. The first class of heirs are the children and their successors. If there are no heirs from that class, the inheritance is divided among the parents and their successors. The third class includes the grandparents and their successors.

The surviving spouse receives:
- One-half of the inheritance if shared with children
- Three-quarters of the inheritance if shared with parents
- The whole in any other case

Under Swiss civil law, the following forced heirships apply as of 1 January 2023:
- For children and their successors: one-half of the inheritance as described above (three-quarters of the inheritance, as described above, until 31 December 2022)
- For the surviving spouse: one-half of the inheritance as described above
- For parents: no forced heirship applies (abolished as of 1 January 2023; one-half of the inheritance, as described above, until 31 December 2022)

The heirs have the possibility of agreeing to another division of the inheritance by setting up a testamentary contract (certain legal requirements must be considered in this situation).

10.3 Matrimonial regimes and civil partnerships

Swiss civil and international private law

The Swiss civil code, in common with other continental European legislation, attributes to specific categories of heirs (e.g., parent, surviving spouse and children of the deceased person) a fixed share in the estate, otherwise known as forced heirship.

The forced heirship provisions, however, are not a matter of public policy and, in an international context, can be circumvented by a non-Swiss testator who is resident in Switzerland and chooses his or her national law to govern the disposition of his or her estate.

The testator can also agree with the compulsory heirs to enter into a so-called successoral pact whereby the latter renounce their compulsory portion. In an international context, however, the validity of such a successoral pact may not only depend on the law applicable to the succession, but also on the law applicable to the capacity of the parties concerned to enter into such a pact.

Swiss international private law regards the jurisdiction of residence as the competent jurisdiction to determine the law applicable to the succession and the principle of unity of succession.

Issues connected with the matrimonial regime have been intentionally not dealt with, although they form an integral part of a succession planning in the circumstances of a married couple.

10.4 Intestacy

If the decedent has not created a last will, the inheritance is attributed according to Swiss civil law (see Section 10.2).

10.5 Probate

Swiss civil law does not normally require a formal procedure in respect of the presentation of a last will to the heirs. On the contrary, the validity of a will does not depend on specific procedures of filing, approval or opening as long as the formal requirements of drafting are respected.

11. Estate tax treaties

11.1 Unilateral rules

Under unilateral rules, the worldwide assets are generally taxed in the canton in which the decedent or the donor has his or her legal domicile. In the canton of Solothurn, the worldwide assets are also taxed if the procedure of the estate distribution takes place in Solothurn.

As an exception to this general rule, immovable property is taxed at the place in which it is located (unilateral exemption).

11.2 Double-taxation treaties

The unilateral tax rules are also applicable in international circumstances, unless a double-taxation treaty limits the taxation right of the canton. This may be the case if a fixed place of business (permanent establishment) is included in the inheritance.

Estate tax treaties

The confederation has concluded estate tax treaties with eight foreign countries: Austria, Denmark (including Faroe Islands), Finland, Germany, Netherlands, Sweden, the United Kingdom and the United States.

Certain cantons, such as Zurich and Basel-Stadt, have also concluded international tax treaties with foreign countries in connection with inheritance tax.

There are no double-tax treaties with regard to gift tax.

12. Specific rules

Certain rules apply when the testator has proscribed that persons take an interest in his or her estate in succession to each other, i.e., there are current and reversionary heirs. In most cantons, inheritance tax will be levied twice: once upon the transfer of the property to the initial heir, and a second time upon the transfer of the property to the reversionary heir. The applicable tax rate will depend upon the relationship between the decedent and the first heir, and the decedent and the reversionary heir. Some cantons, such as Vaud and Jura, levy tax once, at the higher rate, depending upon the relationship between the decedent and the first or reversionary heir.

Other rules apply in cases involving the creation of a usufruct. In the majority of the cantons, the beneficiary of the usufruct will be liable to inheritance tax on the capitalized value of the usufruct. The bare owner will pay taxes on the open market value of the capital assets less the capitalized value of the usufruct.

In both cases, tax advice should be sought on the basis of the individual circumstances.

Thailand

EY contacts:

Thailand

EY Corporate Services Limited
33rd Floor, Lake Rajada Office Complex
193/136-137 Rajadapisek Road
Klongtoey, Bangkok
10110
Thailand

Kasem Kiatsayrikul
kasem.kiatsayrikul@th.ey.com
+662 264 9090, ext. 77033

Praew Mahadumrongkul
praew.mahadumrongkul@th.ey.com
+662 264 9090, ext. 66019

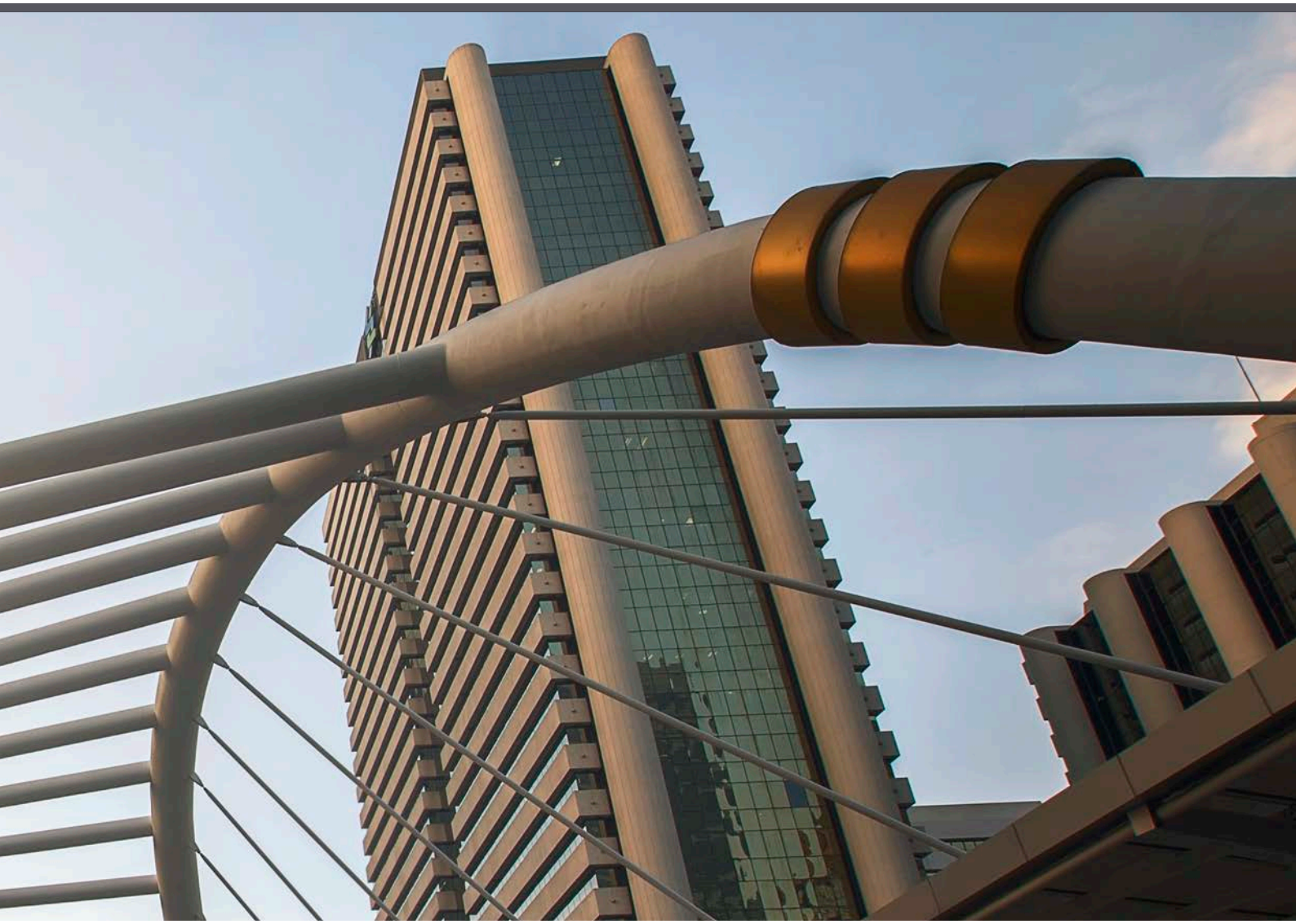
1. Types of tax

Thailand enacted the laws governing receipt of inheritance and gifts during late 2015 and they have been effective since February 2016 onward. Inheritance tax is levied on the value of particular assets received by the descendants after the deaths of the owner, while gift tax is applicable on the assets received before death.

Otherwise, Thailand generally currently does not impose estate tax, endowment tax or wealth tax.

1.1 Inheritance tax

The Inheritance Tax Act of Thailand was formally announced through the Royal Gazette on 5 August 2015 and was effective 180 days after the date of



the announcement, i.e., 1 February 2016 onward. The act specifies the assets, received as an inheritance, that are subject to the inheritance tax as follows:

- Immovable properties
- Securities under the law governing securities and the securities market (e.g., shares, debentures, mutual funds' units, common stock and derivatives)
- Money and any other forms of money that have been deposited, where the depositor/owner of such inheritance has the right to withdraw it or claim it from the financial institution or a person who accepted the deposit
- Registered vehicle
- Other financial assets as specified by a Royal Decree

If the assets are valued in non-Thai currency, said assets must be converted in Thai baht using the commercial bank rate at transaction date.

1.2 Gift tax

The Revenue Code Amendment Act (No. 40) was gazetted on 5 August 2015, and effective from 1 February 2016 onward, the same effective date as the Inheritance Tax Act. This Revenue Code Amendment Act (No. 40) stipulates the content covering the taxation of gifts, which repeals the existing provision in the Revenue Code. The amended content is outlined in the following sections.

1.3 Relevant taxes on the transfer of properties

The summary of transfer tax is outlined in the table below.

Nature of transaction	Applicable tax	Tax rate	Payable by
Transfer of immovable properties	Specific business tax	3.3% on transfer value	Seller
	Transfer fee	2% on official appraised value	Seller and buyer equally
Transfer of movable properties	Value-added tax	7% on transfer value	Seller but charged to buyer
	Stamp duty	0.5% on vehicle transfer value	Seller
Transfer of shares	Stamp duty	0.1% on the higher of paid-up or transfer value	Seller

A relief from taxes may be granted under the tax-saving business transfer scheme provided by the Thai Revenue Department.

1.4 Endowment tax

Not applicable in Thailand.

1.5 Net wealth tax

Not applicable in Thailand.

2. Taxpayers, bases and rates

2.1 Inheritance tax

The recipients of the inheritance, which are subject to the tax liability, and the details regarding the tax bases and rates are as follows.

- A person with Thai nationality. This includes:
  - A natural person with Thai nationality
  - A juridical person or a legal entity registered in Thailand or under Thai law
  - A juridical person or a legal entity with Thai-nationality shareholders holding more than 50% of already-paid registered capital at the time the legal entity is entitled to the right of inheritance receipt
  - A juridical person or a legal entity with more than 50% of those who possess the corporate managing power have Thai nationality

- The tax liability is levied regardless of where the assets received as an inheritance are situated (i.e., both Thai and non-Thai countries).
- A natural person with non-Thai nationality but who has residence within Thailand under the immigration law. The tax liability is levied regardless of where the assets received as an inheritance are situated (i.e., both Thai and non-Thai countries).
- When a person with non-Thai nationality receives the assets situated in Thailand as an inheritance, the tax liability is levied upon only on the inheritance situated in Thailand.

A person who received an inheritance from a deceased person, regardless of where the assets received as an inheritance are situated or whether they are in receipt of a single time or multiple inheritances, shall be liable to the tax payment, given that the combined value of the inheritance received from a deceased person is more than THB100 million. In this regard, only the portion exceeding THB100 million shall be taxed. For the objective of the inheritance tax, the value of the inheritance that is subject to tax refers to the value of assets received as an inheritance net of liabilities inherited by such deceased person.

The tax rate is 10% of the value of taxable assets inherited. However, if the recipient of the inheritance is a descendant or a parent of the owner of inheritance, the rate is reduced to 5%.

2.2 Gift tax

A summary of the amended taxation of gifts regarding taxpayers, bases and rates is as follows.

Gift subject to tax	Tax details
Gifts of immovable property received by the lawful child (not including a lawfully adopted child)	**Taxpayers** Legitimate parents who transferred possessory rights/ownership of such immovable properties **Tax base** All kinds of immovable properties The portion of the gift received exceeding THB20 million in a tax year **Tax rate** 5% on the portion exceeding THB20 million as a gift tax 5% on the portion exceeding THB20 million as a withholding tax
Gifts of movable property (i.e., money and other properties) received from legitimate parents, descendants or spouse for maintenance and support under moral obligation	**Taxpayers** A person who received such gifts **Tax base** All kinds of movable properties whose value can be converted to money The portion of the gift received exceeding THB20 million in a tax year **Tax rate** 5% on the portion exceeding THB20 million No withholding tax imposed
Gifts of movable property (i.e., money and other properties) received from other persons not being legitimate parents, descendants or spouse in a ceremony or on occasions in accordance with custom and tradition	**Taxpayers** A person who received such gifts **Tax base** All kinds of movable properties whose value can be converted to money The portion of the gift received exceeding THB10 million in a tax year **Tax rate** 5% on the portion exceeding THB10 million No withholding tax imposed

3. Rates

The calculation method of inheritances' value depends on the categories that the inheritances belong to. The details regarding the assessment practices are outlined in the table below.

Categories	Assessment method
Immovable property	**Situated within Thailand** Land Department's official appraised value **Situated outside Thailand** The appraised value of immovable property for the collection of fees for official registration of rights in the respective jurisdiction Or In case the first method is not available, the value of inheritances received will be based on the appraised value from the certified organization in the respective jurisdiction If the first and second methods are not applicable, the value will be based on the market price on the date of inheritance receipt
Securities	**Listed on the Stock Exchange of Thailand (SET)** Closing price on the date of inheritance receipt **Non-listed on SET** The net book value of the shares in a non-listed company for the fiscal year ended before the year that such securities are inherited by the recipient **Securities in a holding company, in which it holds the shares of other companies that are non-listed on SET** The net book value of the fiscal year ended before the fiscal year that such securities are inherited by the recipient; whichever is higher between the holding company or the companies in which such holding company is holding shares **Securities in a holding company, in which it holds the shares of other companies that are listed on SET or listed on other foreign (i.e., non-Thai) stock exchange markets** Whichever is higher, the holding company's net book value of the fiscal year ended before the year that such securities are inherited by the recipient or the closing price of the company in which such holding company is holding shares on the date of inheritance receipt **Treasury bill, bond, bill of exchange and debenture** Whichever is lower between the initial selling and redemption prices **Securities listed on foreign (i.e., non-Thai) stock exchange markets** Closing price on the date of inheritance receipt **Others** Market price or value on the date of inheritance receipt
Registered vehicles	**Motorcycles and cars registered in Thailand** Whichever is higher, the appraised value for stamp duty used in the transfer of ownership, or the appraised value by the members of professional organizations engaging in price assessment activities for such vehicles **Motorcycles and cars registered in foreign (i.e., non-Thai) countries** The appraised value by the members of professional organizations engaging in the price assessment activities for such vehicles in the respective jurisdiction **Ships and airplanes** The appraised value by the members of professional organizations engaging in the price assessment activities for such vehicles in the registered jurisdiction **Others** Market price or value on the date of inheritance receipt

Categories	Assessment method
Money and any other forms of money that have been deposited, where the depositor/owner of such inheritance has the right to withdraw it or claim it from the financial institution or a person who accepted the deposit	The inheritance value subject to tax shall also include the value of money or any other forms of money, plus the fruits earned on the date of inheritance receipt

4. Exemptions and reliefs

4.1 Inheritance tax

The Inheritance Tax Act will not be enforced on:

- An inheritance by a recipient if the donor dies before the effective date of the Act
- An inheritance by a spouse of the donor
- In addition, under the Inheritance Tax Act, the following persons are exempt from the tax liability specified under this law:
  - A person who obtained the inheritance that the inheritance owner expresses his or her intention for such inheritance to be used for the purposes of religion, education or public interest
  - A governmental entity (e.g., state-owned enterprise and public organization) or a juridical person (e.g., religious place, Thai Red Cross, foundation or association, and school and higher educational institution) who was established for the purposes of religion, education and public interest
  - A person (e.g., United Nations' official, consul, and diplomat) or international organization (e.g., United Nations, embassy, consulate) that Thailand has the obligation with under the United Nations or under international laws or in compliance with a treaty or mutual/compromising agreement between Thailand and any other countries

4.2 Gift tax

The Revenue Code Amendment Act (No. 40) provides a tax exemption on gifts received that have a value less than THB20 million or THB10 million within each tax year and the gifts that the giver expresses his or her intention for such gifts to be used for the purposes of religion, education or public interest.

5. Filing procedures, tax payment and return

5.1 Inheritance tax

The taxpayer has the obligation to file the inheritance tax form (Por Mor 60) 150 days from the date of receipt of inheritance that has a value exceeding THB100 million from each deceased person who is the owner of the inheritance. However, the filing deadline could be extended upon the approval of Director-General of Thai Revenue Department based on the justifiable/legal necessity and/or natural disaster. An official assessment will be made within one year from the filing date, but the period of one year can be extended with approval from the Director-General of the Thai Revenue Department.

Thirty days after receiving an assessment letter, the taxpayer shall make a tax payment, including fines and surcharges. The tax payment can be made as an annual installment not longer than five years, but only as an annual installment for two years without additional surcharges or interests. The payment installment can only be requested/approved with the placement of collateral.

A taxpayer can request a tax refund in cases where a taxpayer has already paid an inheritance tax, but such taxpayer does not have the obligation to make a payment of more than the tax amount subject to be paid.

The person who would like to request a tax refund needs to submit the request for tax return form (Kor 10) with appropriate evidences within five years after all the inheritance taxes have been paid. An official assessment will be made within 150 days from the request submission date. After that, the result shall be notified to the taxpayer within 15 days after the completion date of the assessment of the tax return request. Where a tax refund is due, it shall be paid to the taxpayer within 30 days after the completion date of the assessment of tax refund request. No interest on the tax return amount is due to the taxpayer.

5.2 Gift tax

All gifts subject to tax are required to be included as assessable income for tax filing purposes using the tax return form (P.N.D. 90). That is, the taxpayer is liable to file and pay gift tax according to the filing schedule of personal income tax. In this regard, the taxpayer can choose to apply the tax rate of 5% on the portion exceeding THB10 or THB20 million as mentioned earlier or include the value of gifts with other assessable income for normal personal income tax computation at the progressive rate of 0%–35%.

6. Tax assessment and appeal

Where a taxpayer does not file the inheritance tax return within the due date, the tax authority is entitled to the right of tax assessment on their own within 10 years after the last due filing date of inheritance tax form submission.

After receipt of the tax assessment result, if the taxpayer does not agree with the tax assessment, he or she can appeal to the Board of Appeals within 30 days after the date of tax assessment result receipt. An official appeal assessment will be made within 180 days after the appeal submission date, with the maximum extended 90 days by the approval of the General-Director of the Thai Revenue Department. After an official appeal assessment period has passed, the taxpayer can appeal to the Central Tax Court within 180 days without necessarily awaiting the result from the Board of Appeals (i.e., 15 days after the completion of the tax appeal assessment).

7. Penalties and surcharges

The details regarding the penalties and surcharges are demonstrated in the table below.

Categories	Fines
Penalties	**Failure to file the inheritance tax form within the date period** 100% of the inheritance tax amount subject to be paid **Incomplete filing or false information** 50% of the inheritance tax amount subject to be paid
Surcharges	**Failure to make a tax payment within the due period** 1.5% of the tax shortfall per month (excluding penalties) **Payment made within the extended date period** 0.75% of the tax shortfall per month (excluding penalties) **Payment made as an annual instalment more than two years onward** 0.5% of the tax shortfall per month (excluding penalties) The surcharges calculation shall start from the date after the payment due until the actual payment has been made. However, the surcharges amount shall not be more than the tax amount subject to be paid.

8. Trusts, foundations and private purpose funds

Not applicable. Thailand does not recognize the trust concept for private investment and there is no specific tax regulation concerning trusts, foundations and private purpose funds.

9. Grants

Assets granted free of charge are considered gifts that can be taxed at a flat rate of 5%. However, gifts received from a legitimate parent, child or spouse (up to THB20 million per tax year) or in a ceremony or on occasions in accordance with custom and tradition (up to THB10 million per tax year) are exempt from tax.

The granting of assets received by a religious institution, an educational institution or a social charity institution, as stipulated by the Minister of Finance, can be tax exempt.

10. Life insurance

Group life insurance premiums paid by the employer to an insurance company operating in Thailand on behalf of its employees are tax-exempt benefits if the duration of the group insurance policy does not exceed one year. Further, when there is a claim for a life insurance benefit, the amount received is not taxable to the beneficiary. The life insurance benefit received by the beneficiary from the policy of the deceased person is not subject to inheritance tax.

11. Civil law on succession

Under Thailand estate law, there are two ways to receive an inheritance: as heirs based on the laws or appointed in a testament.

11.1 Forced heirship

This would depend on the rules that are followed when distributing the inheritance, which is based on Thailand Estate law.

11.2 Matrimonial regimes and civil partnerships

The assets acquired during marriage become the property of the spouses equally. For assets owned before the marriage, the right is fully with the spouse who brought the assets. For assets granted to a spouse during marriage, the right is also fully with the spouse who received the grant (gift), unless stated otherwise by the grantor of those assets.

A prenuptial agreement to separate the ownership of the assets acquired during the marriage is possible.

11.3 Intestacy

Under Thailand inheritance law, there are two ways to receive an inheritance: as heirs based on the laws or appointed in a testament.

12. Estate tax treaties

Thailand does not have any estate tax treaties.

Türkiye

EY contacts:

Istanbul

EY
Orjin Maslak Plaza Eski
Büyükdere
Cad. No: 27 Türkiye
Sarıyer, Istanbul
Türkiye

Emre Celebiler
emre.celebiler@tr.ey.com
+90 212 408 57 62

Didem Erdem
didem.erdem@tr.ey.com
+90 212 408 48 40

1. Types of tax

The transfer of goods that belong to Turkish citizens and the transfer of goods in Türkiye from one person to another person by inheritance or gratuitously in another way are subject to inheritance and gift tax.

The inheritance and gift tax is also applicable for the goods that Turkish citizens acquire abroad in the same ways.

However, a foreign person who does not have a place of residence in Türkiye and who acquires a Turkish citizen's goods that are outside the borders of Türkiye by inheritance or gratuitously in another manner, cannot be held liable for the inheritance and gift tax.

The inheritance and gift tax base is the value of the transferred goods determined according to the Tax Procedural Code. (See Section 6 for details of valuation.) If deduction of the debt and cost specified in the Inheritance and Gift Tax Law is required, the inheritance and gift tax base is the remaining amount of value of the transferred goods determined according to the Tax Procedural Code after deduction of these debts and costs.

1.1 Inheritance tax

The transfer of goods obtained from heritage, testament and inheritance contracts is subject to inheritance tax.

1.2 Gift tax

The gratuitous transfer of goods by donation or another manner is subject to gift tax.

1.3 Real estate transfer tax

There is no tax in Türkiye called "real estate transfer tax." However, real estate transfer is subject to the taxes mentioned below.

The transfer of real estate that belongs to Turkish citizens, and the transfer of real estate in Türkiye from one person to another person by inheritance or gratuitously in another manner, are subject to inheritance and gift tax.

Income derived from the sale of real estate for money by an individual person within five years from the date of acquisition of that real estate is subject to income tax. However, income derived from the sale of real estate transferred by inheritance or gratuitously is not subject to income tax.

1.4 Endowment tax

There is no tax in Türkiye called "endowment tax." However, the gratuitous transfer of goods by donation or another manner is subject to inheritance and gift tax.

1.5 Transfer duty

There is no tax in Türkiye called "transfer duty." However, the transfer of goods that belong to Turkish citizens and the transfer of goods in Türkiye from one person to another person by inheritance or gratuitously in another manner are subject to inheritance and gift tax.

1.6 Net wealth tax

In Türkiye, wealth and transfer of wealth are subject to tax. Property tax and motor vehicles tax are taxes on wealth. Also, transfer of wealth to another person by inheritance or gratuitously in another manner is subject to inheritance and gift tax.

1.7 Luxury housing tax

A new tax for luxury housing is established and effective as of 1 January 2020 in Türkiye. Accordingly, properties valued above TRY15,709 million for 2025 will be subject to tax at a progressive tax rate ranging from 0.3% to %1, of the item's appraised value.

On 20 February 2020, Turkish Law No. 7221, which contains amendments to the luxury housing tax, was published in the *Official Gazette* and entered into force. In accordance with the law, the following changes are made with respect to the luxury housing tax:

- Tax returns to be submitted as of 20 February 2025 for the current year.
- "Building Tax Value" of the houses regulated by the Real Estate Tax Law provisions will be taken into account in determining whether a house is subject to tax.
- The 2025 luxury housing tax rates will be calculated based on the below tariffs:
  - 0.3% for houses with a value between TRY15,709 million and TRY23,564 million (including TRY23,564 million) (for the part exceeding TRY15,709 million)
  - 0.6% for houses with a value up to TRY31,421 million (TRY23,565 for the immovable value of TRY23,564 million) (for the part exceeding TRY23,564 million)
  - 1% for houses with a value exceeding TRY31,421 million (TRY70,707 up to the immovable value of TRY31,421 million) (for the part exceeding TRY31,421 million)
- Those who own only one residence will not be subject to the luxury housing tax regardless of their type of income or whether they are retired.
- Those who own more than one real estate qualified as their residence will not be subject to the luxury housing tax on their residence with the lowest value.

2. Who is liable?

2.1 Residency

Recipients of property through inheritance or donation are subject to inheritance and gift tax.

Turkish citizens are subject to inheritance and gift tax on worldwide assets received.

Resident foreigners are subject to inheritance and gift tax on worldwide assets received from Turkish citizens and on assets located in Türkiye received from resident foreigners or nonresidents.

Nonresident foreigners are subject to inheritance and gift tax on assets located in Türkiye only.

2.2 Domicile

Tax residency and tax domicile have the same meaning from a Turkish tax point of view.

3. Rates

Items acquired as gifts or through inheritance are subject to a progressive tax rate ranging from 10% to 30% and 1% to 10%, respectively, of the item's appraised value.

For the 2025 tax year

Taxable value of the acquisition (TRY) (*)	Tax rate for inheritance (%)	Tax rate for gift (%)
First 2.4 million	1	10
Following 5.7 million	3	15
Following 12 million	5	20
Following 24 million	7	25
Taxable value more than 44.1 million	10	30

** Note: For the 2025 tax year, TRY2,316,628 of inheritance gains and TRY53,339 of gift gains are exempt from tax.*

For the gratuitous transfer of goods between mother, father, spouse and children (other than gratuitous transfers from adoptive child to adoptive parents), gift tax is calculated by using half of the rates in the tariff related to gifts.

4. Exemptions and reliefs

The following transfers are exempt from inheritance and gift tax:

- Household goods transferred through inheritance, and personal belongings of the descendant and belongings kept as heirlooms, such as paintings, swords or medals
- For the 2025 tax year, TRY2,316,628 of the inheritance shares corresponding to each child and spouse, including adopted children, from movable or immovable properties, the value of which is determined according to Article 10 (if there are no children, TRY4,636,103 of the inheritance share corresponding to the spouse)
- Gifts, devices, dowry and other things that are given as per customs (except for immovable properties)
- All charities
- For the 2025 tax year, TRY53,339 of transfers made voluntarily
- For the 2025 tax year, TRY53,339 of prizes won in games of chance defined under Law No. 5602 (dated 14 March 2007) on Regulation of Taxes, Funds and Shares Received from the Revenue of Games of Chance
- The financial support provided duly and in accordance with their purposes as per their status by the persons included within the scope of paragraphs (a) and (b) of Article 3 of the Inheritance and Gift Law, which contains provisions about the persons exempt from inheritance and gift tax
- Salaries given to widows and orphans by public administrations and institutions or institutions subject to Law No. 3659 or associations with public utility or retirement funds (or from organizations with this nature); retirement bonus given apart from these salaries; marriage bonuses given to widows and orphans; collective payments made instead of salaries to the widows and orphans of decedents that had not completed the term of services; and amounts paid to disabled soldiers and orphans of martyrs from seller's share of monopoly administrations
- Onefold of the amount accepted under paragraph (b) from the value of all the goods transferred to the children and spouse or mother and father of officers, petty officers and soldiers (including Gendarmerie) who died in a war or in a conflict with bandits, or during movements and practices, or as a result of being wounded in these; and similarly of police department members who died on duty
- In donations made with recourse condition according to Article 242 of the Code of Obligations, in case the donee dies before the donator; donated goods are recoursed to the donator
- Goods transferred in the nature of bare ownership (provided that it stays as bare ownership) except for the transfers made voluntarily between living persons
- Goods allocated to foundations, which are granted with tax exemption by the Council of Ministers, for their incorporation or after their incorporation
- Amounts distributed to owners of commercial-plate vehicles from the money derived from the sales of commercial plates by the traffic commissions authorized with the Council of Ministers Resolution in provinces where plate restriction is applied
- Procedures related to transfer and acquisition through transfer and inheritance of registered immovable cultural assets within the scope of Law No. 2863 on Protection of Cultural and Natural Assets
- Economic transfers and aids to be made to government business enterprises from the budgets of general and annexed budget administrations
- Entitled parts of the state's contribution to the individual retirement account within the scope of Individual Retirement, Savings and Investment System Law No. 4632 and dated 28 March 2001

According to the second, fifth and sixth bullets, exemption limits to be applied in each calendar year are determined by increasing the previous year's exemption limits at the revaluation rate specified as per the provisions of Tax Procedures Code for the current year.

5. Filing procedures

Date for declaration and payment of tax

Declaration of the tax

Inheritance and gift tax is assessed on the declaration submitted by the respondent.

In the case of inheritance:
- The declaration will be submitted within four months starting from the date of death as a rule of law.
- If the death occurs in Türkiye and the taxpayer is outside of Türkiye, the declaration period is extended to six months.
- If the death occurs outside of Türkiye and the taxpayer is in Türkiye, the declaration will be six months starting from the date of death.
- In the case of occurrence of death in a foreign country and the taxpayer is in the same foreign country, the declaration period will be four months.
- However, when the death occurs in a foreign country and the taxpayer is in another foreign country, the declaration period is extended to eight months.
- In case of absence, the declaration will be submitted within one month starting from the date of declaration of presumed death.

In the case of gratuitous transmissions, the declaration will be submitted within one month following the date of acquisition of the properties.

For the competitions and lottery drawings organized by real persons or entities and chance games that are defined in Law No. 5602, the declaration will be submitted until the 20th of the following month of the day on which competition, lottery drawings and contests are done.

Payment of the tax

Inheritance and gift tax is paid over three years in two equal installments, in May and November each year. However, for prizes paid to the winners in competitions and lottery drawings organized by real persons or entities and prizes distributed in chance games that are defined in Law No. 5602, gift tax is paid within the submission period of the declaration.

Declaration and payment of tax for the transfer of real estate

Registration of real estate that is gained through succession is done without waiting for the accrual of the inheritance and gift tax, provided that the result is declared to a related tax office within 15 days at the latest starting from the registration date. However, transfer and alienation of the real estate that is gained through succession cannot be done, and no real right can be established over the real estate unless inheritance and gift tax related to acquired real estate is fully paid. Recording officers cannot execute transfer and alienation transactions without a severance document provided by the tax office, otherwise, recording officers are held responsible successively for the payment of the tax along with the taxpayer. However, if the taxpayers provide collateral (in terms of collateral defined in Law No. 6183) against the accrued tax, all or part of the real estate gained through succession is allowed to be transferred and alienated.

6. Assessments and valuations

Valuation

Valuation of goods that are transferred through inheritance or other ways is done in two stages.

First, taxpayers value and declare the transferred goods according to the methodologies defined in the Inheritance and Gift Tax Law. According to the Tax Procedural Code, if there is no defined methodology stated in the tax law, wealth declared by taxpayers is subject to second valuation by the tax authority. In this stage, valuation methodologies, which are defined in the Tax Procedural Code, are applied.

Valuation methodologies defined in the Inheritance and Gift Tax Law and the Tax Procedural Code are provided below:

Type of good	Method of valuation (under Inheritance and Gift Tax Law – first valuation by the taxpayer)	Method of valuation (under Tax Procedural Code – valuation by the tax office)
Commercial capital	Shareholders' equity shown in the balance sheet of year preceding the death year. It is also possible to make valuation by using the shareholders' equity in the balance sheet of the death date.	Commodities, ships and vehicles, installments and machines, inventory stock and other movable assets in a commercial capital included in taxable possessions are valued at arm's-length prices.
Real estate	Taxable value	Taxable value
Movable goods and ships	Market value	Comparable value
Equity	1. If it is listed in a stock market, it is valued with the most recent market price in the three years from death. 2. If it is not listed in a stock market or it is not traded for three years from death, it is valued with nominal value.	Market prices of stocks, whether included in the commercial capital or not, and stocks that are not registered in the stock exchange are valued at arm's-length prices. If it is detected that there is simulation in the determination of the market price, arm's-length price is taken as a basis rather than this price.
Bond	Nominal value	Market prices of bonds, whether included in the commercial capital or not, and bonds that are not registered in the stock exchange are valued at arm's-length prices. If it is detected that there is simulation in the determination of the market price, arm's-length price is taken as a basis rather than this price.
Foreign currency	Market value (if the market value does not exist, Central Bank's buying rate is used in calculation)	Market value (Central Bank's buying rate)
Rights	Land registration value for the rights that are subject to registration. Rights that are not subject to registration are not considered in the first valuation.	Rights that are subject to registration are valued by land registration value; others are valued by comparable value.

7. Trusts, foundations and private purpose funds

Foundations are institutions of social assistance and social solidarity that meet the needs of different areas of society and help prevent social injustice that occurs because of competition between people and institutions.

Established foundations aiming to use at least two-thirds of their overall revenues to fulfill the service or services that took part in the budget of public or private administration can be exempted from tax by the decision of the Council of Ministers.

According to Article 4 of the Inheritance and Gift Tax Code, goods allocated to foundations that are granted a tax exemption by the Council of Ministers for their incorporation or after their incorporation are exempt from inheritance and gift tax.

8. Grants

The transfer of goods by inheritance or gratuitously is subject to inheritance and gift tax. However, transfers and grants mentioned in Section 4 are exempt from inheritance and gift tax.

9. Life insurance

Payment from the insurance company to the heirs because of natural death of the life insurance policy owner is subject to inheritance and gift tax, with the tax rate of inheritance. However, payment from the insurance company to a person who is not an heir as a result of the natural death of the life insurance policy owner is the gratuitous transfer of money and is subject to inheritance and gift tax, with the tax rate of gift.

10. Civil law on succession

10.1 Estate planning

This is not applicable in Türkiye.

10.2 Succession

Under the "universal succession" principle, heirs automatically gain inheritance in accordance with the law as a whole upon the decedent's death. Heirs directly gain all of the decedent's property rights, receivables, rights of other properties and rights on movable goods and real estate, and they are personally liable for the decedent's debts.

Inheritance may be rejected within three months by the heirs.

10.3 Forced heirship

In Türkiye, descendants are the first-degree heirs of the deceased person. Children's heirship has equal share. When children are still alive, the grandchildren do not inherit, but if a child has died before the deceased person, his or her children (grandchildren) inherit their share of the estate.

If there are no children, the parents have automatic inheritance right. Parents have equal heirship shares. If only one parent is living, the descendants of the deceased parent inherit the share attributed to this parent. If both parents are deceased, their children or grandchildren (sisters, brothers, nieces and nephews of the deceased person) receive the inheritance of their parents.

If there are no children or parents, the grandparents have automatic inheritance right. Grandparents have equal heirship shares. If the grandparents are deceased, their descendants inherit their portion.

The spouse will be the heir by these proportions:
- Receive a quarter of the share if there are descendants of the deceased person
- Receive half of the share if there are parents
- Receive three-quarters of the share if there are grandparents
- Receive the entire share if there is no legal inheritance

If there are no heirs at all, the state of Türkiye is entitled to inherit the estate of the deceased.

10.4 Matrimonial regimes and civil partnerships

Participation in goods acquired and matrimonial agreements

In Turkish Civil Law, spouses have the half share of the acquired goods remaining after the deduction of liabilities related to these goods. Some properties of the acquired goods belonging to a spouse are listed in the law as follows:
- Acquisitions resulting from work
- Payments made by social security and welfare entities or personnel relief funds
- Claims paid due to loss of working ability
- Incomes of personal belongings
- Values that are substitutes of acquired goods

According to Turkish Civil Law, matrimonial agreements, which define the proportion of the right on the goods acquired, could also be made. If there is a matrimonial agreement between spouses, shares of each spouse are determined according to this agreement.

10.5 Intestacy

Three types of will are stated in Turkish Civil Law:
1. Legal will
2. Oral will
3. Handwritten will

A legal will is a legal document that regulates an individual's estate after death. Two witnesses are needed, and it is edited by a legal civil officer.

If the will is handwritten, witnesses are not necessary. A handwritten will is required to be fully written and must be signed. It should also include the exact date, which consists of day, month and year, that the will was created. A handwritten will may be left to a notary, justice of the peace or authorized officer to be kept in an open or closed manner.

For oral wills, which are possible only in very special cases, including risk of sudden death, being inaccessible, illness, war, etc., two witnesses are required to listen to the last wishes of the devisor and write a will complying with the declaration of the devisor.

If there is no valid will, the rules of intestate succession will apply (see above).

10.6 Probate

A will must be delivered to a justice of the peace after the death of the individual, regardless of whether it is valid or not.

The officer who regulates or maintains the testament, or the person who stores it on request of the deceased person or finds the will, is responsible for delivering the will to the justice of the peace. Otherwise, he or she is responsible for the damage caused by not delivering the will. The justice of the peace examines the will immediately and takes the necessary means of protection and decides to deliver the heritage to the heirs temporarily or manage the heritage legally after listening to the responsible people, if it is possible.

Within one month from the delivery of the will, it must be opened and read by the justice of the peace from the settlement area of the deceased person.

Known heirs and other interested parties are called if they wish during the opening of the will.

The same procedures will be performed for subsequent wills.

A certified copy of portions of the will of the rightful heirs will be notified by the judge to the entitled heirs.

11. Estate tax treaties

11.1 Unilateral rules

A foreign person who does not have a place of residence in Türkiye and who acquires a Turkish citizen's goods that are outside the borders of Türkiye by inheritance or gratuitously in another manner cannot be held liable for the inheritance and gift tax.

The transfer of goods in Türkiye from one person to another person by inheritance or gratuitously in another manner is subject to inheritance and gift tax.

11.2 Double-taxation treaties

There are currently no estate tax treaties established between Türkiye and other countries.

Ukraine

EY contacts:

Kyiv

EY
Khreschatyk Street, 19A
Kyiv
01001
Ukraine

Olga Gorbanovskaya
olga.gorbanovskaya@ua.ey.com
+380 44 490 3022

Halyna Khomenko
halyna.khomenko@ua.ey.com
+380 44 490 3028

1. Types of tax

Ukraine has no specific inheritance or gift taxes. According to Ukrainian law, a transfer of property – either inherited or received as a gift – is subject to personal income tax. In addition, state duties may apply in certain cases, such as verification of testaments and issuance of certificates on the right to inheritance, and verification of certain gift agreements.

Personal income tax

In general, current Ukrainian tax law provides the same personal income tax implications with respect to income received as a gift or inheritance.

According to clarifications from the Ukrainian tax authorities, the taxable event for the heir occurs at the moment he or she obtains a certificate on the right to inheritance. Such a certificate can be obtained as late as six months after the inheritance commencement date, which is the actual date of the testator's death. It should be noted that inheritance of immovable property in Ukraine requires further state registration of the ownership rights to it. Thus,

the moment when the individual obtains inheritance and is liable for paying taxes on it, and the moment when he or she becomes its actual owner, do not always coincide.

The state duty

The state duty is imposed for verification of testaments at the rate of 0.05 of the nontaxable minimum (i.e., UAH0.85 or GBP0.02 at the current exchange rate[1]), per each testament. It is also imposed for the issuance of the certificate on the right to inheritance at the rate of two nontaxable minimums (i.e., UAH34 or GBP0.65 at the current exchange rate) per each certificate.

If there are several heirs, the state duty is calculated for each of their shares (portions).

[1] Because of constant local currency rate fluctuations in Ukraine, it is recommended that readers contact an EY advisor for correct rates.

The law stipulates that if a subject matter of a gift agreement is an immovable property or any currency valuables amounting to over UAH850 (GBP16.13 at the current exchange rate), it must be notarized. The state duty in such a case amounts to 1% of the contractual price, but not less than one nontaxable minimum (i.e., UAH17 or GBP0.32) per contract.

The state duty on verification of succession agreements amounts to 1% of the value of the transferred property, but not less than one nontaxable minimum (i.e., UAH17 or GBP0.32) per the agreement.

1.1 Inheritance tax and tax on gifts during lifetime

There are no inheritance or gift taxes in Ukraine.

1.2 Gift tax

There is no gift tax in Ukraine.

1.3 Real estate transfer tax

There is no real estate transfer tax in Ukraine.

1.4 Endowment tax

There is no endowment tax in Ukraine.

1.5 Transfer duty

There is no transfer duty in Ukraine.

1.6 Net wealth tax

Even though there is currently no net wealth tax in Ukraine, there is a tax for owners of motorcars manufactured no more than five years ago with an average market value exceeding 375 times the monthly minimum wage established for 1 January of the reporting year (currently, UAH3 million or GBP56,932.48). The tax is UAH25,000, or GBP474.44 per year for each motorcar that meets the above criteria.

The list of motorcars that fit the above criteria is published on the official website of the Ministry of Economy by 1 February of the tax year.

In addition, property owners are subject to real estate tax if the area of an apartment exceeds 60 m², the area of a house exceeds 120 m² or the total area of various types of property exceeds 180 m². The excess over the specified area is subject to real estate tax at a rate not exceeding 1.5% of the monthly minimum wage established for 1 January of the reporting tax year (currently, UAH120 or GBP2.28) per square meter. If an individual owns an apartment area that exceeds 300 m² and/or a house area that exceeds 500 m², the amount of real estate tax is increased by UAH25,000 or GBP474.44 per each immovable property object that meets the above criteria.

2. Who is liable?

2.1 Residency

Generally, taxation in Ukraine depends on an individual's tax residence status, source of income and type of income.

In defining tax residency status, Ukrainian law uses the tiebreaker residency test.

An individual is considered a tax resident of Ukraine if he or she:
- Has a place of residence in Ukraine
- Has a permanent place of residence in Ukraine (if he or she also has a place of residence in a foreign state)
- Has close personal or economic links (center of vital interests) in Ukraine (in case he or she also has a place of residence in a foreign country)
- Spent more than 183 days in Ukraine, including arrival and departure days (if the state in which an individual has a center of vital interests cannot be defined)
- Is a citizen of Ukraine (despite the actual time he or she spent on Ukrainian territory during the reporting period)

Regardless of the test, according to the practical approach of the Ukrainian tax authorities, the number of days spent by an individual in Ukraine within the calendar year is considered the main criterion for the determination of tax residence status.

Ukrainian tax residents are taxed on their worldwide income, while Ukrainian tax nonresidents are taxed only on Ukrainian-source income, that is, on the inherited assets located on Ukrainian territory or that have their source there. In Ukraine, income tax on inheritance and/or gifts depends on the relationship that the heir, legatee and/or donee has to the testator/donor and on the tax residency status of both parties. Tax residents have to pay income tax on inheritance and/or gifts, irrespective of the location of the acquired assets.

2.2 Domicile

Domicile is identified in Ukraine with an individual's permanent place of residence and is applicable for determining the individual's tax residence status. See section 2.1.

3. Rates

The general personal income tax rate in Ukraine is 18%. Ukrainian tax law provides for special tax rates applicable to income received in the form of gift or inheritance, which are as follows:

	First degree of kinship (spouse, parents and children) and second degree of kinship (siblings, grandparents and grandchildren) (%)	Other family members and all other Ukrainian tax residents (%)	Individual with disability of the first category or an orphaned child (%)	Ukrainian tax nonresident (%)
Real estate	0	5	0	18
Movable property	0	5	0	18
Commercial property*	0	5	5	18
Insurance payouts	0	5	5	18

	First degree of kinship (spouse, parents and children) and second degree of kinship (siblings, grandparents and grandchildren) (%)	Other family members and all other Ukrainian tax residents (%)	Individual with disability of the first category or an orphaned child (%)	Ukrainian tax nonresident (%)
Monetary assets	0	5	0	18
Property owned by a Ukrainian tax nonresident	18	18	18	18

* For further taxation purposes, investment assets (e.g., securities, dividends) received as a gift or inherited are considered to have been acquired at the value of the state duty and personal income tax paid in connection with such acquisition.

Additionally, the military levy at the rate of 5% of gross value of the received assets applies to any income subject to personal income tax (i.e., taxed at rates other than 0%).

4. Exemptions and reliefs

According to Ukrainian tax law, a 0% tax rate applies to the income received by Ukrainian tax residents from a Ukrainian tax resident in the form of:

- Assets received by the heirs, legatees and/or donees of the first degree and second degree of kinship
- Immovable and movable property, monetary assets (both cash and funds available on the bank accounts) received by an individual with disability of the first category or an orphaned child
- Immovable and movable property received by a child with disability
- Money deposits stored in the former USSR savings bank and state insurance institutions, as well as funds invested into the former USSR governmental securities

5. Filing procedures

Income in the form of an inheritance or a gift has to be disclosed in the annual tax return. A filing exemption applies to individuals who received property taxed at a 0% tax rate or those who paid taxes prior to obtaining the certificate of inheritance or verification of the gift agreement by a notary (e.g., tax nonresidents).

According to current Ukrainian tax law, an annual tax return has to be filed by 30 April of the year following the reporting year. The deadline for settlement of personal income tax liability is 31 July of the year following the reporting year.

Ukrainian tax residents who intend to leave Ukraine permanently are liable to file departure tax returns two months prior to the date of departure.

Ukrainian tax nonresidents should calculate and pay the income tax liability arising from income received in the form of an inheritance prior to issuance of the inheritance certificate by a notary, but they are not obliged to file the annual tax return with respect to the inherited assets (provided that there was no other income, which triggers filing obligations in Ukraine in the respective year).

6. Assessments and valuations

According to Ukrainian law, the term "estate" refers to the special object of civil rights and is defined as an item of property or as an accumulation of items, property rights and duties.

Even though an inheritance consists of the rights and duties of the deceased, a taxable base in case of income received in the form of an inheritance or a gift is defined as the gross value of the received assets, and no deductions are applicable (e.g., those related to formalizing the right to inheritance or debts).

For inheritance taxation purposes, the following types of assets make up an estate:
- Immovable property
- Movable property (e.g., jewelry, transportation vehicles)
- Commercial property (e.g., securities, corporate rights, intellectual property and business ownership rights)
- Insurance payouts
- Monetary assets (both cash and funds in bank accounts)

According to Ukrainian law, valuation of property for taxation purposes is conducted mostly by independent certified appraisers based on the statutory prescribed methodology for each type of asset. The valuation process is aimed to verify the fair market value (FMV) of a particular piece of property. For movable property such as motorcars and motorcycles, the law provides for the possibility of determining the value of inherited/donated assets based on mid-market prices for the same kind of property published quarterly by Ukraine's Cabinet of Ministers.

In case the assets were received in the form of an inheritance or a gift taxable at 0% tax rate, the assessment value for such object should not be determined.

7. Trusts, foundations and private purpose funds

Ukrainian law does not clearly define the term "trust." In Ukraine, a "trust" takes the legal shape of an estate administration agreement. Under such an agreement, an owner conveys his or her estate to a legal entity or a private entrepreneur who, in return, is obliged to manage the estate for the benefit of either the owner or the owner-appointed beneficiary, based on an agreed-upon fee. The taxation of the income conferred on the beneficiary is subject to taxation in Ukraine at an 18% flat tax rate. See section 3.

Under an estate administration agreement, a transfer of the limited property ownership rights is restricted because the estate administrator cannot alienate the estate without the owner's consent.

According to Ukrainian law, an estate administration agreement automatically terminates with the owner's death. Therefore, a creation of a testamentary trust to facilitate transfer of property to the potential heirs is not possible.

8. Grants

This is not applicable in Ukraine.

9. Life insurance

By a general rule, an amount of life insurance payout is included in a decedent's estate. Such compensation is payable once an heir or a legatee presents his or her certificate on the right to inheritance to an insurance company.

However, if the life insurance contract appoints a certain individual as a sole beneficiary of the insurance payout, this asset is not included in the estate and is not subject to inheritance. The insurance company should act as a tax agent of the life insurance payouts made to the heirs by withholding personal income tax and military levy on behalf of the individual and remitting it to the Ukrainian Treasury.

10. Civil law on succession

10.1 Estate planning

Estate planning opportunities in Ukraine are rather limited. The assets of a decedent are taxed at fixed tax rates, irrespective of the type of property. Transfer of property among individuals in Ukraine is mostly executed through sale-purchase agreements, gift agreements or an inheritance, and income thus received is subject to personal income tax applied to its gross value.

It should be noted that rules for taxation of gifts in Ukraine are the same as those established for taxation of an inheritance. Therefore, gifting assets prior to death has the same tax impact as inheritance tax.

The estate planning process in Ukraine narrows down to tracing an individual's residence status where possible (as tax rates provide for a less favorable tax regime for tax nonresidents), as well as weighing in an option of concluding a succession agreement.

However, it is worth mentioning that property acquired via succession agreement is subject to taxation at a rate of 23%, which is higher than that for property inherited by testament or by law (i.e., 0% or 5% tax rate, as described in the table in section 3).

10.2 Succession

Ukrainian law determines two main types of succession: intestate (by-law) succession and testament succession.

As a general rule, the individuals specified in the will have the right to succession. The law therefore determines by-law succession as a secondary type of succession (after a testament). According to the general intestate procedures, by-law heirs inherit the portion of the assets not covered in the will. The legatees are admitted to inheritance of this portion of assets on the general basis, along with the by-law heirs.

Generally, the place of a commencement of inheritance is the last place a testator lived. If that place is unknown, the place of commencement is the place in which the testator's real estate (or most of it) is located. If he or she had no real estate, the place is where his or her movable property is located.

An heir who accepts an inheritance that includes real estate or encumbered immovable or other property shall obtain a certificate on right to the inheritance. Each heir receives his or her own certificate that specifies the names and shares of the other heirs. These certificates are issued six months after the inheritance begins. The heir becomes the owner of the real estate at the moment of its state registration.

Testate succession

According to Ukrainian law, a will represents an individual's personal instructions in the event of his or her death. The individual must draft the will himself or herself as representation is not allowed. The testator can include either the entire estate or a part of it in the will.

The testator may institute as an heir any individual or legal entity, Ukraine as a state, the autonomous Republic of Crimea, local authorities, foreign jurisdictions, and other subjects of public law. He or she can also divest any of the by-law heirs of the right to succession without specifying reasons for doing so.

According to the law, people who intentionally hinder the testator in making, changing or canceling the will in order to become legatees or to increase their shares or other people's shares are divested of the right to succession.

The testator may institute a bequest in favor of an individual or a legal entity and designate a legatee who shall grant to the beneficiary a certain scope of the ownership rights with respect to the inherited assets (e.g., the right to inhabit a real estate for a lifetime). The beneficiary can claim his or her rights with respect to the estate, starting from the moment of commencement of the inheritance, and retain these rights in the event of any changes of the real estate owner.

The testator may grant easements to individuals or entities under the will, authorizing them to use the real estate for certain defined purposes. The testator may also define certain criteria that have to be met before an individual can inherit the estate.

Succession agreement

According to Ukrainian law, individuals or married couples can create succession agreements regarding their property. Under such agreements, an acquirer is obliged to undertake actions specified by the alienator(s) in return for ownership rights to the assets after the owner's death. The alienator(s) can appoint an individual to control the execution of the agreement after his or her death.

10.3 Forced heirship

The law states that some categories of by-law heirs have the right to succession irrespective of the will. These include the testator's children under 18 years of age, grown-up children with disabilities, spouses and parents with disabilities. Such heirs inherit half of the shares in the decedent's estate that would have belonged to them in case of by-law succession. Shares of the individuals in inheritance can be reduced by a court's decision (e.g., if they failed to provide necessary care for the deceased before his or her death).

10.4 Matrimonial regimes and civil partnerships

According to Ukrainian law, a property acquired by a married couple during the marriage makes up their joint property, unless otherwise prescribed by the law or an agreement. The spouse's share in the joint property is subject to by-law inheritance on general grounds. However, Ukrainian law provides an opportunity for the couple to make a marital will covering their joint property. According to the marital will, the spouse who outlives the other inherits the deceased share in the joint property. The notary imposes a restraint on alienation of the joint property after the death of one of the spouses. Upon the death of the second spouse, the estate is distributed among the legatees according to the provisions of the will.

Ukrainian law does not recognize same-sex marriages and civil partnerships. However, individuals who live as part of the testator's family for at least five years before the inheritance commences are granted the right to inherit the assets of the deceased (see section 10.5).

10.5 Intestacy

According to Ukrainian law, the by-law heirs inherit the assets if:
- There is no will
- The will is void
- The will covers only a part of the testator's estate
- The legatees failed to accept the inheritance (for any reason)
- The legatees renounce succession
- The legatees died before the commencement of the inheritance
- The legatees are divested of the inheritance

Only private individuals can be heirs by law. To execute the right to succession, a by-law heir should provide documented evidence of his or her family or matrimonial relations with the testator and perform all the actions necessary to register ownership rights to the inheritance.

The law states that some categories of heirs are divested of the right to succession, such as individuals who intentionally murdered or attempted to murder the testator or any of the potential heirs, or parents divested of parental rights to a child (the testator). Moreover, people whose marriages have been declared invalid cannot inherit one another's property. A court can also divest of the right to succession parents (adopters), grown-up children (adoptees) and other individuals who did not take care of or support a testator who was helpless as the result of age, illness or mutilation.

By-law succession is performed in turns. Ukrainian law provides for five turns of priority of heirs by law.

The first priority	The testator's children (including children conceived during the lifetime and born after the death of the testator), spouse and parents
The second priority	The testator's brothers and sisters and both paternal and maternal grandparents
The third priority	The testator's aunts and uncles
The fourth priority	Individuals who lived as part of the testator's family for at least five years before the inheritance commenced
The fifth priority	Other relatives of the testator up to the sixth degree of kinship (note: the tax law provides for only two degrees of kinship) and the testator's dependents other than his or her family members

In general, every next turn of by-law heirs inherits the property when there are no heirs of the previous priority turn, the heirs of the previous priority turn have been divested of the right to succession, and/or the heirs of the previous priority turn do not accept or refuse to accept the inheritance.

An heir can renounce succession within six months of the date of commencement of the inheritance. If he or she does, the other by-law heirs of the same priority divide his or her share in equal parts. An heir can also refuse his or her share in favor of any of the by-law heirs, irrespective of the priority turn.

If no legatee or by-law heir accepts the inheritance within a year of its commencement, a court can cede the escheat inheritance to the relevant local government.

10.6 Probate

The concept of probate is not applied in Ukraine. However, the inheritance procedure in Ukraine bears some resemblance to the probate process.

In particular, the law establishes a six-month period for the heirs or legatees to accept the estate and a possibility for a testator to appoint the testamentary executor, which can be either a legal entity or an individual. The appointed testamentary executor's written consent is usually reflected in the testament or added to it. Under certain circumstances, heirs or a notary can also be empowered to authorize the testamentary executor.

A testamentary executor's obligations are as follows:
- To protect the inheritance
- To inform heirs, legatees and creditors about the commencement of the inheritance
- To claim fulfillment of obligations by the testator's debtors
- To administer the inheritance
- To ensure that each legatee receives the shares that the will determines
- To ensure that forced heirs receive their portions of inheritance; furthermore, the executor shall ensure that the legatees perform the actions to which they are obliged according to the will

Under the succession agreement, the alienator can appoint a person to control the execution of the agreement after his or her death. If no one is appointed, a notary controls it.

11. Estate tax treaties

11.1 Unilateral rules

There are two methods for avoiding double taxation in Ukraine. The first, and the main one, is a foreign tax credit, which is applicable to Ukrainian residents. The second is a tax exemption, which may technically apply to Ukrainian nonresidents.

A foreign tax credit

Taxes that a Ukrainian tax resident pays abroad may be credited against his or her Ukrainian tax liability, provided that a double-taxation treaty exists between Ukraine and the relevant foreign state.

Should an individual taxpayer be eligible for a foreign tax credit, he or she should state the amount of foreign taxes that demand credit in his or her annual Ukrainian tax return.

Generally, using a foreign tax credit to relieve double taxation is possible if all of the following conditions are met:
- A double-taxation treaty between the states in question is available and effective.
- The nature of the taxes paid abroad and to be paid in Ukraine (for example, an income tax) is the same.
- A taxable base is the same.
- A reporting period is the same.
- A taxpayer is the same.
- A certificate from the foreign tax authorities, duly legalized or apostilled and officially translated into Ukrainian, is available.

According to the credit method, the total of the foreign taxes credited in Ukraine cannot exceed the tax liability payable in Ukraine.

Should the individual have dual citizenship, which Ukrainian law does not recognize, he or she is treated for tax purposes as a Ukrainian citizen who is ineligible for a foreign tax credit.

As mentioned above, avoidance of double taxation is possible, provided that all the numerous conditions are met, which significantly decreases the feasibility of getting a relief. These conditions create complications related to:
- Diverging nature of taxes: There are many jurisdictions that levy either inheritance or estate taxes, while in Ukraine a personal income tax applies to an inheritance.
- Diverging taxable person: Ukraine does not levy taxes either on estate in the meaning of a taxable person or on a deceased person. In Ukraine, only an heir/legatee may be considered a taxpayer.
- Diverging methodology for valuation of assets and conditions to deduct debts and expenses: In Ukraine, debts and expenses are not deductible for taxation purposes and the gross value of inherited assets is subject to taxation.
- Diverging taxable events: In Ukraine, a taxable event occurs at the moment of obtaining a certificate on the right to inheritance, in contrast to many other jurisdictions, which consider the moment of death as a taxable event. This may cause a situation in which a taxable event in Ukraine will take place in another reporting period, giving no chance for relief.

Failure to meet even one condition makes getting a foreign tax credit impossible. Therefore, unilateral relief is insufficient for overcoming double-taxation issues in Ukraine.

In addition, Ukrainian tax law clearly prescribes that the following foreign taxes cannot be credited against Ukrainian personal income tax:
- Capital gains taxes and estate taxes
- Post taxes
- Sales taxes and other indirect taxes irrespective of whether they fall under the profit tax category or should legally be considered separate types of taxes

Considering the above, the foreign tax credit method of avoiding double taxation of property received via gifts or as an inheritance in most cases will not be applicable in Ukraine.

Tax exemption

Ukrainian tax nonresidents may be eligible for exemption from taxation of their Ukrainian-source income if a relevant double-taxation treaty envisages it. Applying for a tax exemption involves filing a certificate substantiating that the individual concerned is a resident of a foreign state.

As in the case of a foreign tax credit, a tax exemption may be granted provided that the nature of taxes paid abroad and in Ukraine are the same. However, as a tax residence certificate (which has to be issued by the foreign tax authorities and subsequently duly legalized and officially translated into Ukrainian) does not make reference to the types of foreign taxes in question but only confirms an individual's residency in a foreign state, technically a tax exemption may be possible even if the nature of the taxes being paid differed.

Envisaged by the law, such a tax exemption is theoretically possible. However, tax authorities have never applied it to individuals. Its feasibility for a Ukrainian nonresident individual is therefore questionable.

In addition, in case of tax payment deferrals in a foreign state, neither exemption nor credit applies in Ukraine.

11.2 Double-taxation treaties

There are no inheritance and estate taxes in Ukraine. Thus, Ukraine has not concluded any tax treaties for avoiding double taxation on estate, inheritance and gift taxes.

The income tax on inheritance and gifts in Ukraine falls within the scope of treaties for avoiding double taxation on income and capital. The double-taxation treaties address all types of double taxation, such as residence source, dual residence and dual source and, in most cases, apply to the personal income tax from the Ukrainian side.

Double-taxation treaties with the following jurisdictions are currently in effect for Ukraine: Algeria, Armenia, Austria, Azerbaijan, Belgium, Brazil, Bulgaria, Canada, China, Croatia, Cuba, Cyprus, Czechia, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Lebanon, Libya, Lithuania, Luxembourg, North Macedonia, Malaysia, Malta, Mexico, Moldova, Mongolia, Montenegro, Morocco, Netherlands, Norway, Pakistan, Poland, Qatar, Portugal, Romania, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Tajikistan, Thailand, Türkiye, Turkmenistan, United Arab Emirates, United Kingdom, United States, Uzbekistan and Vietnam.

Generally, the method for avoiding double taxation under a treaty follows the pattern that the domestic law envisages for unilateral relief. That method is, therefore, insufficient given the diverging nature of taxes, taxable person, taxable base and taxable event.

Given the above, avoidance of double taxation is almost impossible because there are no double-taxation treaties on inheritance and gift taxes in Ukraine and because most of the jurisdictions levy inheritance or estate taxes on inheritance, while Ukraine levies income tax on inheritance. The relief may be sufficient only in those rare cases, in which the nature of taxes imposed on inheritance in Ukraine and in a foreign country coincide.

United Kingdom

EY contacts:

London

Ernst & Young LLP
1 More London Place
London
SE1 2AF
United Kingdom

Tom Evennett
tom.evennett@uk.ey.com
+44 20 7980 0890

Caspar Noble
cnoble@uk.ey.com
+44 20 7951 1620

Dan Thompson
dthompson2@uk.ey.com
+44 20 7951 0144

Neil Morgan
nmorgan1@uk.ey.com
+44 20 7951 1878

Sonia Rai
srai1@uk.ey.com
+44 20 7951 6384

Sarah Farrow
sarah.farrow@uk.ey.com
+44 20 7520 8404

Jo Hurley
jo.hurley@uk.ey.com
+44 20 7951 5279

Justin G. Cobb
justin.cobb@uk.ey.com
+44 20 7550 0506

Georgina West (Stamp Taxes)
gwest1@uk.ey.com
+44 (0)7920 702368

Manchester

Ernst & Young LLP
2 St Peter's Square
Manchester
M2 3EY
United Kingdom

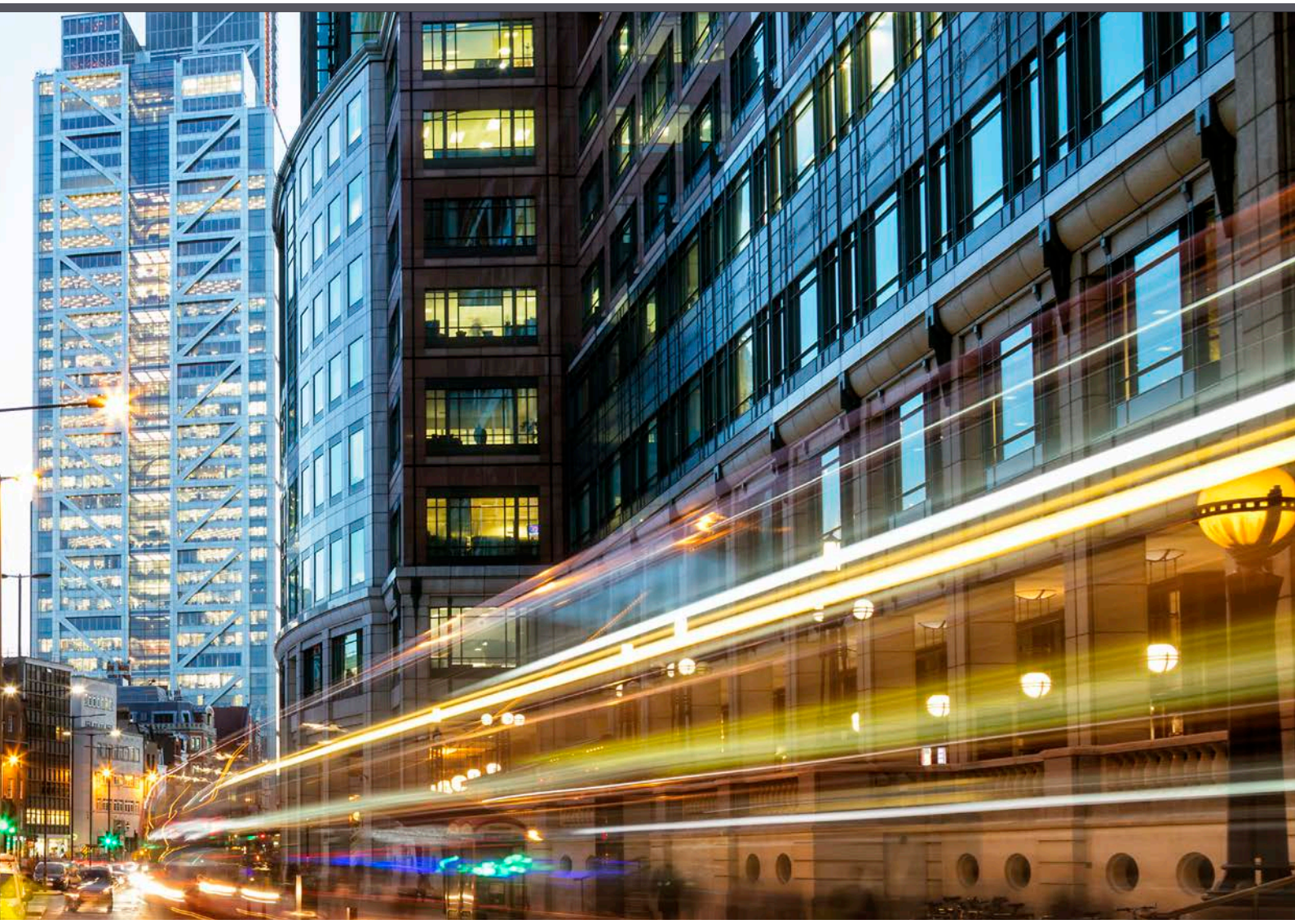
Martin Portnoy
mportnoy@uk.ey.com
+44 161 333 3275

Rob Luty
rob.luty@uk.ey.com
+44 16 1234 6402

Liz Smith
lizsmith@uk.ey.com
+44 161 234 6434

Belfast

Ernst & Young LLP
Bedford House
16 – 22 Bedford Street
Belfast
BT2 7DT
United Kingdom



Matthew Harrison
matthew.harrison1@uk.ey.com
+44 20 7951 5882

Birmingham

Ernst & Young LLP
1 Colmore Square
Birmingham
B4 6HQ
United Kingdom

Chris Romans
chris.romans1@uk.ey.com
+44 12 1262 4600

Bristol

Ernst & Young LLP
The Paragon, Counterslip
Bristol
BS1 6BX
United Kingdom

Paul Cooper
pcooper3@uk.ey.com
+44 117 981 2513

Newcastle-Upon-Tyne

Ernst & Young LLP
City Gate
St James' Boulevard
Newcastle-Upon-Tyne
NE1 4JD
United Kingdom

Mark Lee
mlee5@uk.ey.com
+44 19 1269 4964

Edinburgh (Scotland)

Ernst & Young LLP
3rd Floor
144 Morrison Street
Edinburgh
EH3 8EB
United Kingdom

Duncan Reoch
duncan.reoch@uk.ey.com
+44 12 2465 3045

1. Types of tax

1.1 Inheritance tax and tax on gifts during lifetime

The United Kingdom (UK) has a unified estate and gift tax called inheritance tax (IHT). IHT applies to the value of an individual's estate when he or she dies (in which case that person is deemed to make a transfer of his or her whole estate immediately before such time) and to certain transfers or gifts made during the individual's lifetime. The tax applies on the basis of the loss of value to the donor's estate that arises by reason of the transfer of value.

Adjustments are made to take account of property that increases or decreases in value by reason of an individual's death (e.g., life insurance policies that mature on death and form part of the deceased's estate).

Certain other events may give rise to deemed transfers of value, including deliberate depreciatory transactions, sales at an undervalue, when a person's interest in certain trusts comes to an end, and when a "close" company (broadly, one in the control of five or fewer persons) makes a disposition. In addition, certain trusts are subject to 10 yearly inheritance tax charges and charges when an asset is distributed out of trust.

Types of transfer

Essentially, there are three types of transfer for IHT purposes. These are:

1. **Exempt transfers**

   As noted in section 4, certain transfers, made during lifetime or on death, attract special exemptions, such as gifts to charities and between spouses. These attract no tax either immediately or upon the individual's death.

2. **Potentially exempt transfers (PETs)**

   These are certain lifetime transfers that only become chargeable if the transferor dies within seven years of making the gift (in which case the gift is usually referred to as a "failed PET"). Types of gifts that fall within this category include outright gifts from one individual to another (other than between spouses, which are exempt as noted above). The transferee is liable for the tax if a charge to IHT arises as a result of a failed PET.

   It should be noted that the potential tax exposure, which will arise if death occurs within the seven-year period, can normally be provided for via bespoke insurance policies that are often available at competitive rates depending on an individual's specific circumstances.

3. **Chargeable transfers**

   These are immediately chargeable when made and will use the donor's nil-rate band (see section 4 below) and any available annual allowances, with any excess being liable to IHT at 20% (and potentially higher taxes if death occurs within the following seven years). Common lifetime chargeable transfers include gifts to most trusts or to a company that is not 100% owned by the donor.

   Transfers on death are fully chargeable at 40% to the extent they exceed the deceased's available nil-rate band and, if applicable, the residence nil-rate band for the deceased's main home, unless specific reliefs are available (e.g., business relief) or the transfer is exempt (e.g., a bequest to a spouse (to the extent that the spouse exemption is unlimited – see section 4) or to an exempt person such as a UK charity). IHT on death is generally levied on the deceased's estate, rather than the beneficiaries (in contrast to the position regarding failed PETs).

Transfers by non-UK domiciliaries

With respect to the three types of transfer set out above, it is important to note that when an individual is non-UK domiciled and not deemed UK domiciled (as set out in section 2.2), special rules apply.

With effect from 6 April 2017, the government introduced new deemed-domiciled rules for IHT (and other personal taxes not covered in this guide), as set out in section 2.2.

UK residential property held via offshore structures

Since 6 April 2017, UK residential property held via a non-UK structure (e.g., a non-UK company or a non-UK partnership) is subject to IHT. Interests in loans provided for the acquisition, maintenance or enhancement of a UK residential property, or to acquire a qualifying interest in a close company or partnership that owns UK residential property, are also within the scope of IHT for most creditors, with only limited exceptions. Such debts are generally deductible for the debtor in calculating the value liable to IHT, and restrictions on the deductibility of connected party debts have been removed. When an entity holding a UK residential property has been sold, or a loan relating to that property has been repaid, the proceeds will continue to be within the scope of IHT for two years after the sale/repayment. When the UK residential property is held within a non-UK trust (e.g., with a non-UK company between the trust and property), the trust will be treated as holding "relevant property," meaning the trust falls within the scope of the 10 yearly charges and exit charges. When a company owns the property, that company needs to pay the annual tax on enveloped dwellings.

Gifts with reservation

A gift where the donor has reserved or retained some direct or indirect benefit or enjoyment over the property given away is treated as being part of the donor's estate for tax purposes until the reservation is removed. It should be noted that this does not affect the normal IHT consequences of making the gift, although, if this ultimately causes potential double taxation, regulations provide appropriate offset to avoid this. For example, a gift to a trust of which the settlor (the person adding property to the trust) is also a beneficiary may trigger a lifetime tax charge at 20% (and a charge on each 10-year anniversary of the trust creation), while the asset gifted would also be treated as within the settlor's estate for IHT purposes on death (and therefore subject to 40% IHT). The release of the reservation is regarded as the making of a potentially exempt transfer. These provisions can also be triggered by any informal, nonbinding arrangement made with the recipient of the gift to provide a benefit in some indirect way to the donor.

Pre-owned assets charge

These provisions were introduced to counter planning measures that gave the donor continued benefit from the assets given away, but which did not fall within the gifts-with-reservation legislation outlined above. From 6 April 2005, when a donor has previously owned an asset (either tangible or intangible) and no longer does so, but arrangements have been made to give the donor continued enjoyment of such property without the asset forming part of his or her estate for IHT purposes, an income tax charge is imposed on him or her, broadly based on the value of the benefit he or she receives. The charge applies when there was previous ownership by the donor at any time since 17 March 1986, and complex rules cover situations where substitutions and replacements have been made by the donee (the recipient of the gift) since then. Gifts of cash can also cause the provisions to apply if made within the prior seven years. The pre-owned assets charge on intangible property affects assets that are neither land nor chattels placed in a settlement where a settlor still has an interest and where certain other conditions are also met.

1.2. Gift tax

There is no separate gift tax in the UK, although the above sets out circumstances when lifetime gifts can trigger an IHT charge. Additionally, lifetime gifts (other than to a spouse) are generally treated as disposals for capital gains tax purposes.

1.3. Real estate transfer tax

Stamp duty land tax (SDLT)

SDLT is charged on transfers of real estate interests located in England and Northern Ireland and certain partnership transactions, at rates ranging from 0% to a total of 19% (the highest rate currently payable on certain purchases of residential property by so-called foreign purchasers).

SDLT on residential property

SDLT arises on transfers of residential property at progressive basic rates up to 12% on the VAT-inclusive consideration provided, or in certain cases (e.g., if buyer is a company that is connected to the seller), the consideration chargeable to SDLT may be substituted with the market value of the transferring property. SDLT is the liability of the purchaser.

An additional 5% rate of SDLT is payable on the acquisition of additional residential property (and any purchases of residential property by non-natural buyers, defined below) for transactions on or after 31 October 2024, prior to this the rate will depend on the rate applicable when the property was acquired.

Subject to certain exclusions, a flat SDLT rate of 15% is payable on certain acquisitions of residential properties with a market value above GBP500,000 by non-natural buyers, such as companies, collective investment schemes and partnerships where at least one of the partners is a company (irrespective of whether these are UK or non-UK entities). This will be relevant for many individuals who use special purpose vehicles (either directly or via offshore trusts) to hold UK residential property and will not be limited to those who have engaged in SDLT planning.

A further 2% SDLT surcharge may be added on top of the rates mentioned above on purchases of residential property in England and Northern Ireland by "non-UK residents" from 1 April 2021. The definition of what constitutes a nonresident for the purposes of SDLT is complicated and can include entities incorporated or formed in the UK.

Relief is available for purchases by first-time buyers where the buyer intends to occupy the purchased dwelling as their sole or main residence. For purchases up to 31 March 2025, relief can be claimed for purchases up to GBP625,000. For the first GBP425,000, no SDLT is payable. SDLT at 5% is then payable on the portion between GBP425,001 and GBP625,000. There is no entitlement to any relief where the purchase price exceeds GBP625,000. From 1 April 2025 the relief is reduced to apply only to properties up to GBP500,000 (with the first GBP300,000 there is no SDLT and between GBP300,001 and GBP500,00 the rate remains at 5%). Please note the different rates/bands applied between 22 November 2017–22 September 2022.

On the grant of a new residential lease, SDLT also applies at a rate of 1% on the net present value of the rent under the relevant lease in excess of GBP250,000.

SDLT on nonresidential or mixed-use property

SDLT is charged on transfers of nonresidential or mixed-use property at progressive rates up to 5% on the VAT-inclusive consideration provided or, in certain cases, the consideration chargeable to SDLT may be substituted with the market value of the transferring property.

On the grant of a new nonresidential (including mixed use) lease property, SDLT also applies at a rate of 2% on the net present value of the rent under the relevant lease that exceeds GBP5 million (below this, the rate applying on the net present value of the rent is 1% on the portion between GBP150,001 and GBP5 million).

Gifts of land and buildings for no chargeable consideration do not, however, generally incur a charge, although a charge by reference to the market value of the property may arise in certain circumstances.

Land and buildings transaction tax (LBTT)

Transfers of certain real estate interests situated in Scotland and certain partnership transactions involving Scottish property are subject to land and buildings transaction tax. This, too, is a progressive charge levied on the value of the (VAT-inclusive) consideration provided, or in certain cases (e.g., if the buyer is a company that is connected to the seller), the consideration chargeable to LBTT may be substituted with the market value of the transferring property.

For transfers of nonresidential (or mixed-use property), LBTT applies at a rate of 1% on the amount of chargeable consideration that is over GBP150,000 and at a rate of 5% on the amount of chargeable consideration that is over GBP250,000.

For transfers of residential property, LBTT applies at progressive rates up to 12%.

A surcharge known as additional dwelling supplement (ADS) can apply to purchases of additional residential property (and certain first purchases of residential property by corporate buyers and certain non-natural persons) in Scotland. The ADS rate for transactions on or after 5 December 2024 is 8%; prior to this, the rate will depend on the rate applicable when the property was acquired. The effective top rate for residential property is thereby currently 20%.

First-time buyers' relief for LBTT applies to increase the nil-rate band for first-time buyers from GBP145,000 to GBP175,000, thereby providing a relief of up to GBP600.

Similar to SDLT and LTT, there are special LBTT rules regarding lease transactions. With regard to the grant of a lease over nonresidential property in Scotland (taking place on or after 7 February 2020), LBTT applies at a rate of 1% on the net present value of the rent under the relevant lease between GBP150,000 and GBP2 million and at a rate of 2% on the net present value of the rent in excess of GBP2 million. Any non-rent chargeable consideration provided for the grant of the lease will be charged at the nonresidential rates up to 5% as outlined above.

Generally, leases of residential property are exempt from LBTT.

Land transaction tax (LTT)

Transfers of certain real estate interests situated in Wales and certain partnership transactions involving Welsh property are subject to land transaction tax (LTT). This, too, is a progressive charge levied on the value of the (VAT-inclusive) consideration provided, or in certain cases (e.g., if the buyer is a company that is connected to the seller), the consideration chargeable to LTT may be substituted with the market value of the transferring property.

For transfers of residential property, LTT applies at progressive rates up to 12%. As with SDLT and LBTT, a surcharge can apply to purchases of additional residential property (and purchases of residential property by corporate buyers and certain non-natural persons) in Wales. The rate for transactions on or after11 December 2024 is 5%; prior to this, the rate will depend on the rate applicable when the property was acquired. The effective top rate for residential property is thereby currently 17%. There is no equivalent first-time buyers' relief for LTT as there is for LBTT and SDLT.

For transfers of nonresidential property, LTT applies at progressive rates up to 6%.

Similar to SDLT and LBTT, there are special LTT rules regarding lease transactions. With regard to the grant of a lease over nonresidential property in Wales, LTT applies at a rate of 1% on the net present value of the rent under the relevant lease in excess of GBP225,000 and 2% over GBP2m. Any non-rent chargeable consideration provided for the grant of the lease will be charged at the nonresidential rates up to 6% as outlined above.

With regard to the grant of a lease over residential property in Wales, there is no LTT on the net present value of the rent under the relevant lease, although LTT is still payable on any premium or non-rent chargeable consideration in the normal way.

Annual tax on enveloped dwellings (ATED)

ATED starting at GBP4,450 (2025-26), but increasing depending on the property value (capped at a maximum of GBP292,350 per annum in 2025-26), applies to those interests held by non-natural persons (as defined above) in a UK dwelling (broadly, an individual residential unit) over GBP500,000. This charge is separate to SDLT, LBTT or LTT and applies to residential properties situated anywhere in the UK. The tax is subject to certain reliefs (e.g., property developers, property rental businesses and qualifying housing cooperatives).

For disposals made from 6 April 2019, ATED-related capital gains tax was abolished, and any gain made by a company from this date will be liable to corporation tax and must be declared on the company's corporation tax return.

1.4. Endowment tax

There is no endowment tax in the UK.

1.5. Transfer duty

In addition to the potential charge of SDLT, LBTT or LTT in relation to the acquisition of UK real estate mentioned above, UK stamp duty is chargeable on documents transferring stock or "marketable securities" (e.g., shares and certain debt instruments) and transfers of certain partnership interests; duty is generally charged at the rate of 0.5% (rounded up to the nearest GBP5) on the consideration given. If no consideration is given, generally there is no charge to stamp duty.

UK stamp duty reserve tax (SDRT) arises on an agreement to transfer "chargeable securities" (e.g., shares, stock and loan capital) and is also charged at the rate of 0.5% on the consideration paid. It is essentially an alternative tax to stamp duty, and subject to meeting certain conditions, when the relevant document of transfer is duly stamped, this will cancel the charge to SDRT that would otherwise arise on the agreement to transfer the relevant chargeable securities. SDRT is therefore generally payable when the chargeable securities are transferred electronically.

With appropriate implementation, these taxes broadly do not apply in practice to transfers of shares in non-UK-incorporated companies.

There is not otherwise any specific transfer duty in UK law, although the above sets out circumstances when lifetime gifts can trigger an IHT charge.

1.6. Net wealth tax

There is no net wealth tax in the UK. However, the annual ATED charge (mentioned in section 1.3) has applied since April 2013 for certain residential properties held by non-natural persons.

2. Who is liable?

The taxation of individuals in the UK is determined by their residence and domicile status (see below), although residence is less important for IHT. IHT is levied on the worldwide estate of a UK-domiciled decedent (no matter where resident) and on the UK-sited assets of a decedent who was neither domiciled nor deemed domiciled (see below) in the UK. Lifetime gifts may also be subject to IHT on the same basis. The decedent's personal representatives (i.e., the persons charged with administering his or her estate under the terms of the decedent's will or under the intestacy laws) or the donor of a lifetime gift is normally liable for payment of IHT (rather than the donee), but various provisions exist for recovery of unpaid tax

from other persons (e.g., the recipients of gifts or the trustees of settlements). However, as noted above, in the case of a failed PET, where tax only arises if the donor dies within the following seven years, the donee is the person primarily liable to pay the tax. When the tax arises on trust assets, it is normally the trustees who are liable to make payment.

2.1 Residence

Since 6 April 2013, a statutory residence test (SRT) has applied in the UK to determine whether an individual is resident in the UK for tax purposes. The SRT is a three-part test:

1. Automatic overseas test
2. Automatic residence test
3. Sufficient ties test

The tests are applied in the above order, so if an individual satisfies the automatic overseas test, it is not necessary to consider the other tests.

Where it applies, the sufficient ties test takes into account the number of days spent in the UK and the number of connecting factors the individual has with the UK. Examples of connecting factors are available UK accommodation, UK resident family members and substantive time working in the UK. The greater number of connecting factors an individual has to the UK, the fewer days he or she can spend in the UK without being a UK resident.

2.2 Domicile

Under the law of England and Wales, an individual is domiciled in the country considered to be their permanent home, even though they may be resident in another country. Every person is born with a domicile of origin, which is normally the permanent home of their father at the date of their birth. The fact that a person may not live in the country he or she regards as his or her permanent home for many years does not preclude that person from being domiciled there, provided he or she has not formed an intention to make any other country his or her permanent home.

A person may, however, acquire a domicile of choice that displaces his or her domicile of origin by moving from one country of residence to another and living there with the intention to remain in the new location permanently or indefinitely. The onus of proving a change of domicile is on the person asserting the change, and when the assertion is the loss of a domicile of origin, the burden of proof is onerous. Where a UK-domiciled person ceases to be UK domiciled as a matter of common law, for IHT purposes he or she is treated as UK domiciled for three calendar years thereafter.

Since 6 April 2017, an individual with a non-UK domicile of origin is deemed domiciled in the UK once he or she has been resident in the UK in at least 15 out of the previous 20 tax years (a "long-term resident"). Where an individual has claimed split-year treatment (e.g., when moving to or leaving the UK partway through a tax year), the split years will count as tax years of UK residence for this purpose. Individuals born in the UK with a UK domicile of origin (returning doms) will be deemed domiciled in the UK for any tax year in which they are UK resident and will be within the scope of IHT if they were UK resident in one of the two prior tax years. In addition, a long-term resident who ceases to be a UK resident will continue to be deemed UK domiciled for IHT purposes for a period of three full tax years of nonresidence.

When one spouse is UK domiciled and the other is non-UK domiciled, there is a lifetime limit of the prevailing nil-rate band (currently GBP325,000) on the assets that can be passed to the non-UK-domiciled spouse under the spouse exemption. However, the non-UK-domiciled spouse can elect to be treated as UK domiciled for the purpose of IHT. This allows an unlimited exemption for transfers of property between spouses but brings the whole estate of the non-UK-domiciled spouse within the scope of IHT. An election of this type relates only to IHT; it does not have an impact on the individual's domicile for other purposes (so it would not, for example, prevent him or her from claiming the remittance basis). The election may be made either during lifetime or on death (by the personal representatives of the decedent's estate). While the election is irrevocable, there are circumstances under which the election, while not revoked, will nevertheless cease to be effective. This occurs once the person making the election ceases to be UK tax resident for four consecutive tax years.

3. Rates

Lifetime transfers

Lifetime chargeable transfers are taxed at a rate of 20%.

Potentially exempt transfers (PETs) are only subject to a tax charge if the donor dies within seven years of the PET. If death occurs within seven years of making a PET, then tax on a PET arises at up to a rate of 40%, and further tax on a previous chargeable gift may arise, at up to 20%, subject to the following reductions:

Number of years after gift made	Percentage of IHT due
0–3	100%
3–4	80%
4–5	60%
5–6	40%
6–7	20%
7 or more	0%

In the case of a lifetime chargeable transfer (e.g., a gift into trust), where higher tax becomes payable at death, the tax previously paid is offset against the IHT due on death.

Death

An individual is deemed to transfer his or her entire estate immediately before death, and that deemed transfer is generally charged at 40% IHT.

When a will contains a charitable legacy of at least 10% of the net value of an individual's estate to a UK charity, this will reduce the IHT rate applied to that estate by 10% — meaning that the effective tax rate will be reduced to 36%. Prior to 15 March 2023, this also applied to EU charities.

The new lower rate will apply automatically to any component of an estate that meets the 10% condition. However, the legislation contains a provision to allow the "appropriate persons" in relation to that component to opt out of the provisions. They may choose to do this when it is expected that the benefit of the low rate will be reduced and they do not wish to incur the cost of valuing assets donated to charity.

Trusts

Certain trusts are also liable to IHT (see section 7 below) on each 10-year anniversary of the trust's creation and on distributions to beneficiaries between these anniversaries. The maximum rate charged at these events is 6% of the fund value.

Date for payment of tax

Lifetime transfers

For chargeable transfers made between dates:

6 April and 30 September	Payment is due on 30 April of the following year.
1 October and 5 April	Payment is due six months after the end of the month in which the chargeable transfer was made.

From 6 April 2014, the tax payment and filing dates for certain trust charges changed so that they must be reported within six months of the transfer and any tax must be settled within the same time frame.

Transfers on death

For transfers on death and extra tax becoming payable on chargeable lifetime transfers and potentially exempt transfers made within seven years of death, payment is due six months after the end of the month in which death occurred.

4. Exemptions and reliefs

IHT is charged on a cumulative basis, so the values of all gifts made within the previous seven years that do not qualify for exemptions or reliefs are added together. IHT is charged at a zero rate on an amount known as the nil-rate band, which is currently GBP325,000. The Chancellor stated in his Budget of 3 March 2021 that the nil-rate band is to remain fixed at this level until April 2026.

In the tax year 2017–18, the UK government introduced the "main residence nil-rate band," which has been introduced as an additional nil-rate band when a residence is passed on death to a direct descendant. The residence nil-rate band has been phased in since 6 April 2017. The residence nil-rate band has increased by GBP25,000 increments each tax year since 2017–18, and since 6 April 2020 it has been GBP175,000. The Chancellor stated in his budget of 3 March 2021 that the residence nil-rate band will remain fixed at this level until April 2026. Any percentage of the unused nil-rate band on first death can be transferred to a surviving spouse or civil partner. Furthermore, the residence nil-rate band is now also available when a person downsizes to a lower-value home or ceases to own a home and assets of an equivalent value, up to the value of the residence nil-rate band, are bequeathed to a direct descendant on death. If an individual's estate has a net value (after the deductions of debts) of more than GBP2 million, the residence nil-rate band tapers away by GBP1 for every GBP2 over the GBP2 million threshold.

As mentioned in section 1.1, chargeable lifetime transfers in excess of this cumulative amount are currently charged at 20% (although if death occurs in the following seven years, this figure may be increased). Deemed transfers on death are charged at 40%. Certain lifetime transfers are regarded as exempt (see below) and others as potentially exempt (see section 1.1).

There are a variety of exemptions and reliefs available to prevent a charge to tax arising on transfers of property. These include the following:

Asset/purpose-related exemptions

During lifetime or at death, the following gifts can be made tax-free without affecting the GBP325,000 nil-rate band:
- Transfers of any amount to a UK-domiciled spouse or civil partner, or between two non-UK-domiciled spouses or civil partners
- Transfers by a UK-domiciled spouse or civil partner to a non-UK-domiciled spouse or civil partner up to the current nil-rate band, and unlimited if election made (see section 2.2)
- Gifts to certain favored bodies (e.g., UK-registered charities)
- Gifts of certain favored types of property (e.g., heritage property)
- Gifts of agricultural or business property (that can qualify for 50% or 100% relief depending on the nature of the property)

From 5 December 2005, same-sex couples were able to register as civil partners under the Civil Partnership Act 2004 and benefit from the same exemptions and reliefs as married couples, and the Marriage (Same-Sex Couples) Act 2013 gave further rights to same-sex couples.

Lifetime gift exemptions

The following exemptions are available for lifetime gifts only:
- Gifts of up to GBP250 per donee per tax year
- Annual exemptions of up to GBP3,000 on chargeable transfers made in a tax year (this can be carried forward for one year only)
- Gifts of between GBP1,000 and GBP5,000 in anticipation of marriage or civil partnership (depending on the identity of the donor)
- Payments for family maintenance (e.g., spouse and minor children or children in full-time education)
- Normal expenditure out of income that does not affect the donor's standard of living

Quick succession relief

In addition, if a person inherits assets and dies within five years thereafter, a form of quick succession relief allows a proportion of tax on the earlier death to be set against the tax at the later death.

5. Filing procedures

In England and Wales, Form IHT400 must be used to deliver an account of a deceased's taxable estate to the HM Revenue & Customs (HMRC) Capital Taxes Office within 12 months of the end of the month of death. Any inheritance tax due must also be paid within six months after the end of the month in which the deceased died. This is normally done simultaneously with the application for a grant of probate to administer the estate, as the tax must be paid before this is issued.

In Scotland, the rules are slightly different. An inventory of the estate must be completed and presented to the local Sheriff Clerk or Commissary Office in Edinburgh for the issue of confirmation (which is the equivalent of grant of probate) along with a C5 Form if the estate qualifies as either an excepted estate or an exempt excepted estate. If the estate does not qualify, Form IHT400 must be submitted to HMRC. All the accounts should be sent in within 12 months of the end of the month in which death occurred.

Periodic and exit charges for trusts are reported on Form IHT100, and the form must be submitted within six months of the charge. Chargeable lifetime events (except those that are excepted transfers or settlements) must be reported on Form IHT100 within one year of the event. A Form IHT100 should also be submitted where an individual has made PETs (and any lifetime chargeable transfers) in the previous seven years that exceed the value of the nil-rate band.

6. Assessments and valuations

For UK IHT purposes, assets are valued at the price that they would be reasonably expected to fetch if sold in the open market.

There is specific guidance that applies to the valuation of shares and securities, where there are two possible valuation methods:

- The quarter-up method
- The average of the highest and lowest marked bargains

In addition, an adjustment will be required when the share or security is quoted ex-dividend or ex-interest.

In some circumstances, liabilities (e.g., loans secured on the asset) can reduce the value that is subject to IHT. It should be noted that loans are not deductible if they were taken out to acquire or enhance excluded property or relievable property, or the loan is not repaid on death (subject to limited grandfathering provisions).

From 2014, this rule has been extended to disallow the deductibility of borrowed funds deposited into a foreign currency account with a UK bank. Such accounts are now included in the definition of "excluded property."

7. Trusts, foundations and private purpose funds

From an estate planning point of view, trusts are often used as a means of making lifetime gifts to enable the donor to place constraints on the donee. Property will normally be gifted at a time when it does not attract an IHT liability, and any growth in value of assets held by the trust is outside of the donor's estate, provided that the donor and donor's spouse cannot benefit from the trust. Care needs to be taken when making gifts, as this can attract a capital gains tax liability on any unrealized appreciation in the asset.

Under the non-domicile rules, the UK government has changed the IHT regime for trusts (please see the summary of the key changes below in this section).

Types of UK trust

Bare trust

A bare trust is the simplest form of trust where property is held effectively as nominee for another person. For legal purposes, the trustees have certain duties and obligations, but for UK tax purposes, the trust and gifts to it are treated as if the beneficiary were the owner of the assets themselves.

Interest in possession trust

An interest in possession trust, or life interest trust, is one that confers on one or more persons a right to receive the income with, in some cases, potential discretionary distributions of capital. From 22 March 2006, inter vivos gifts to interest in possession trusts have followed the tax treatment that applies to discretionary trusts (see below), whereas gifts that confer an immediate post-death interest (IPDI) are not subject to the relevant property regime (see below). An IPDI arises where an interest in possession is created on the death of a testator/testatrix (either pursuant to the terms of a will or on intestacy). However, it is important to note that, depending on the identity of the life tenant, the creation of an IPDI may still result in an inheritance tax charge arising for the testator/testatrix's estate on their death.

Discretionary trust

A discretionary trust is one where the trustees have discretion over distributions of capital and income, including accumulation and maintenance trusts.

An accumulation and maintenance trust is a type of discretionary trust, for a class of beneficiaries under 25 years of age, which prior to 22 March 2006 (provided it complied with special rules) had beneficial ongoing inheritance tax treatment. This tax treatment is no longer available, and the tax treatment follows that of a discretionary trust, as set out below. In place of accumulation and maintenance trusts, there are two trust regimes: trusts for bereaved minors and 18–25 trusts, and, provided certain conditions are met, each trust has a more beneficial inheritance tax treatment than a normal discretionary trust. However, as far as new trusts are concerned, both of these new categories of trust can only be set up on death.

Creation of trusts during lifetime and transfers of assets

The creation of an interest in possession trust or a discretionary trust, or the transfer of property into such a trust, is, generally speaking, a chargeable lifetime transfer.

The gift to a trust may therefore incur a lifetime IHT charge of 20% if the value of assets gifted over the seven-year cumulative period exceeds the nil-rate band or the transfer does not otherwise qualify for relief. Additionally, trusts that are in the relevant property regime are subject to periodic and exit charges. This means that a tax charge of up to 6% of the fund value applies at each 10-year anniversary of the trust's creation (the periodic charge) and, proportionately, on distributions from the trust between these anniversaries (the exit charge). These charges do not apply to any unaccumulated income that has arisen in the trust, but income that has not been accumulated and remains undistributed for more than five years at the date of a periodic charge is deemed to be capital for the calculation of the charges. In 2015, legislation was introduced that targets the use of multiple trusts on death, thus preventing the use of multiple nil-rate bands. Prior to 22 March 2006, the gift of property to an interest in possession trust or an accumulation and maintenance trust was a potentially exempt transfer. Since 22 March 2006, only the following gifts into trust should qualify as a potentially exempt transfer:

- A gift into a qualifying disabled person's trust
- A gift into a bare trust created for an individual beneficiary

Non-UK settlements

Trusts, whether or not UK resident, that are created by UK-domiciled or deemed-domiciled individuals are within the scope of IHT, no matter where the settlor is resident at the time of the trust's creation or the situs of the assets held. Whenever trusts are formed by non-UK-resident persons, care needs to be taken to ensure they are not still deemed to be UK domiciled and thus subject to IHT.

Excluded property settlements

If a trust is established by a settlor when he or she is non-UK domiciled (and when he or she is also not deemed domiciled in the UK) and the trust assets are sited outside the UK, the trust is an excluded property trust. This means that the non-UK assets, provided they are situated outside the UK at the time at which a charge to IHT could arise, will remain outside the scope of IHT, even if the settlor subsequently becomes UK domiciled or deemed domiciled as the law currently stands, provided that they do not add assets to the trust at that point. Such trusts are normally non-UK-resident trusts because this may also be important for capital gains tax purposes. Non-UK assets settled on trust, or transferred between trusts, once an individual becomes deemed domiciled will not benefit from the excluded property settlement provisions for IHT.

Excluded property settlements established by non-UK-domiciled persons should retain their UK tax-privileged status even when the non-UK-domiciled settlors become deemed domiciled for UK tax purposes (under the "15 out of the 20 years" deemed-domicile rule; please see section 2.2 above), provided that non-domicile status is maintained under common law and the trust is not "tainted." However, trusts established by returning doms (as defined above) and holding non-UK situs assets will no longer be excluded property (and therefore may be exposed to UK IHT on 10-year anniversaries and on distributions of capital from the trust) if the settlor is UK resident at the relevant time.

UK-sited assets, except those mentioned in the paragraph below, owned by a non-UK-incorporated company held by an excluded property trust will also remain outside the scope of IHT. However, certain assets should typically not be held in this way, as there may be other UK tax disadvantages (e.g., UK real estate occupied by a beneficiary).

All UK residential property owned by non-UK companies and other entities (for example, partnerships or foundations) is within the scope of IHT. The value of the interest in the entity holding the property is within the scope of IHT to the extent its value derives from UK residential property (less any relevant borrowings), thus negating the planning outlined above. Interests in loans provided to acquire, maintain or enhance UK residential property or to acquire a qualifying interest in a close company or partnership that owns UK residential property are within the scope of IHT for the creditor. Such debts are generally deductible for the debtor, and restrictions on the deductibility of connected-party debts have been removed. The relevant chargeable events for UK IHT purposes may include the following:

- The death of the individual, wherever resident, who owns the company shares
- A gift of the company shares into trust
- The 10-year anniversary of the trust
- Distribution of capital (such as company shares) out of trust
- The death of the donor within seven years of having given the company that holds the UK property away to an individual
- The death of the donor or settlor when he or she benefits from the gifted UK property or shares within seven years prior to his or her death

8. Grants

With regard to estate taxes, there are no specific rules in the UK.

9. Life insurance

The proceeds from a life insurance policy will fall into an individual's estate on death and trigger an IHT charge on assets passing. It is possible, however, to write the policy into trust so that it falls outside the estate, and consequently, the value is not chargeable on death.

10. Civil law on succession

10.1 Summary of measures that may reduce IHT

UK domiciliaries and UK-deemed domiciliaries

The following measures may help to reduce IHT liabilities for UK domiciliaries and deemed domiciliaries.

- Lifetime gifts that constitute PETs or annual gifts out of income
- Lifetime gifts that are exempt
- Investing in assets that qualify for reliefs, such as business property relief or agricultural property relief
- Settling assets into trust to create a nil-rate band trust

Non-UK domiciliaries

The extent to which excluded property trusts may reduce IHT for individuals who are not UK domiciled is discussed in section 7 above.

10.2 Succession

There are no compulsory succession rules in England and Wales, other than the statutory rules of intestacy covered below in section 10.5.

In Scotland, however, members of the family have automatic inheritance rights irrespective of the provisions in a will (legal rights), and these rights are covered in summary below in sections 10.3 and 10.5. We recommend specific Scottish legal advice be taken when considering succession, forced heirship, intestacy or probate matters.

10.3 Forced heirship

England and Wales

There are no compulsory inheritance rules or forced heirship rules in England and Wales. However, if insufficient provision has been made for his or her spouse or for other persons financially dependent on the deceased, a claim against a UK-domiciled individual's estate may be made under the Inheritance (Provision for Family and Dependents) Act 1975.

Scotland

In Scotland, a spouse and children (and grandchildren, if his or her parent has predeceased) have automatic inheritance rights irrespective of the provisions in a will (legal rights). These can be claimed as an alternative to accepting any inheritance under the will. It is not possible to accept both. If there are no children, Scots law provides a surviving spouse with half of the net movable estate (assets excluding buildings and land). If there is no spouse, the children take half of the net movable estate to be divided equally between them. If there are a spouse and children, the spouse and the children (jointly if more than one) each takes one-third of the net movable estate. The balance can be freely disposed of by will or by the laws of intestacy if there is no will.

These rights under Scots law can be defeated by lifetime gifts to others or to trusts of the individual's movable estate. It is difficult to completely defeat legal rights, however, as there is almost always some movable property remaining in an individual's estate on the date of death.

10.4 Matrimonial regulations and civil partnerships

There is no concept of matrimonial or community property in the UK.

10.5 Intestacy

Testamentary documents and intestacy

A will is a legal document that regulates an individual's estate after death. Subject to what is said above with regard to Scotland, in England and Wales an individual generally has complete freedom of disposition.

The UK will normally accept the formal validity (i.e., of the document itself) of a will drawn under the laws of the deceased's domicile, nationality or place of residence at the time of making the will or at death. In England and Wales, the requirement is that the testator sign at the end of the will in the presence of two witnesses, who must sign in his or her presence and in the presence of each other. In Scotland, the testator must subscribe the will and sign every page in the presence of one independent witness, who must also sign his or her presence. A will can generally be revoked and replaced, save in limited circumstances where mutual wills have been written.

Whether he or she has the personal legal capacity to make the dispositions in the will is generally governed by the law of the deceased's domicile. In the case of the UK, this means the law of the *situs* of the assets will be relevant when real estate is concerned, and the law of the deceased's domicile will be relevant in the case of other assets.

If there is no valid will at death, then the deceased is intestate and his or her estate passes under the statutory rules of intestate succession. When there are cross-border issues, the conflicts-of-law provisions will be relevant, which are beyond the scope of this chapter.

The intestacy rules are different depending on whether the individual is domiciled in England, Wales or Scotland on his or her death.

The following tables set out the current rules:

Intestacy rules in England and Wales

	Spouse or registered civil partner and children* survive decedent	**Spouse or registered civil partner and parents survive decedent but no children, grandchildren or great-grandchildren**	**No spouse or registered civil partner survives decedent**
Personal effects	Spouse or registered civil partner	Spouse or registered civil partner	–
Legacies	GBP250,000 and personal possessions to spouse or registered civil partner		–
	One-half of the rest To spouse or registered civil partner outright	To spouse or registered civil partner outright	Whole estate in order of priority to the exclusion of all others
			Children (at 18 years old or when married if before) and on trust until that time (surviving grandchildren take the share of a deceased child)
	One-half of the rest To children in equal shares at 18 years old (or when married if before) and on trust until that time (surviving grandchildren take the share of a deceased child)		Parents in equal shares
			Brothers and sisters (and nephews and nieces, if they have predeceased)
			Half-brothers and half-sisters (and their children, if they have predeceased)
			Grandparents in equal shares
			Uncles and aunts (and their children, if they have predeceased)
			Half-brothers and half-sisters of decedent's parents (and their children if they have predeceased)
			The Crown

* Children of a predeceased child of the intestate parent take their parent's share.

Intestacy rules in Scotland

	Spouse or registered civil partner and children* survive decedent	Spouse or registered civil partner survives decedent but no children*	Children* survive decedent but no spouse or registered civil partner	Neither spouse nor registered civil partner nor children* survive decedent
1. Dwelling house right	To spouse or registered civil partner, up to a value of GBP473,000; balance per No. 5 below	To spouse or registered civil partner, up to a value of GBP473,000; balance per No. 5 below	–	–
2. Furniture and plenishings	To spouse or registered civil partner, up to a value of GBP29,000; balance per No. 4 then No. 5 below	To spouse or registered civil partner, up to a value of GBP29,000; balance per No. 4 then No. 5 below	–	–
3. Financial provision	GBP50,000 to spouse or registered civil partner	GBP89,000 to spouse or registered civil partner	–	–
4. Legal rights	One-third of net movable estate to spouse or registered civil partner; one-third to children	One-half of net movable estate to spouse or registered civil partner	One-half of net movable estate to children	–
5. Balance of estate (heritable and movable) s2 of 1964 Act (i.e., Succession (Scotland) Act 1964)	To children	One-half to surviving parents and one-half to surviving siblings. If no surviving parents, all goes to siblings. If no surviving siblings, all passes to parents. If no surviving siblings or parents, all passes to spouse or registered civil partner.	To children	One-half to surviving parents and one-half to surviving siblings. If no surviving siblings, all passes to parents. If no surviving parents, all passes to siblings. If none of the aforementioned, all passes to aunts and uncles. If no aunts and uncles, all passes to grandparents. If no grandparents, all passes to brothers and sisters of grandparents. If none of the aforementioned, all passes to remoter relatives and if none of those, ultimately to the Crown.**

* When a child would have had a claim had he or she not died before the intestate parent, his or her descendants may claim that child's share.

** When a relative would have had a claim under these rules had he or she not died before the intestate individual, that relative's descendants may claim that relative's share. In this way, an intestate's nieces and/or nephews could have a claim if the estate (or part of it) was due to pass to the intestate individual's brothers and sisters, but one or more of the brothers or sisters died before the intestate leaving children.

10.6 Probate

In England and Wales, the granting of probate (when there is a will) or letters of administration (when there is no will) and, in Scotland, the obtaining of confirmation allow the personal representatives to administer the deceased's estate and for the assets to be passed to the beneficiaries as named in the will or by the laws of intestacy. Probate will only be granted when the tax due under the estate has been settled or, in limited circumstances, when an installment option has been agreed with the authorities. The payment date for tax due is six months after the end of the month in which death occurred (see section 5 above), after which interest will be charged on the outstanding sum. In England, the estate can be distributed as soon as a grant has been received. In Scotland, the personal representatives (executors) must wait six months from date of death before distributing in order to deal with any creditor claims (otherwise, they may be legally liable for any unpaid debts).

11. Estate tax treaties

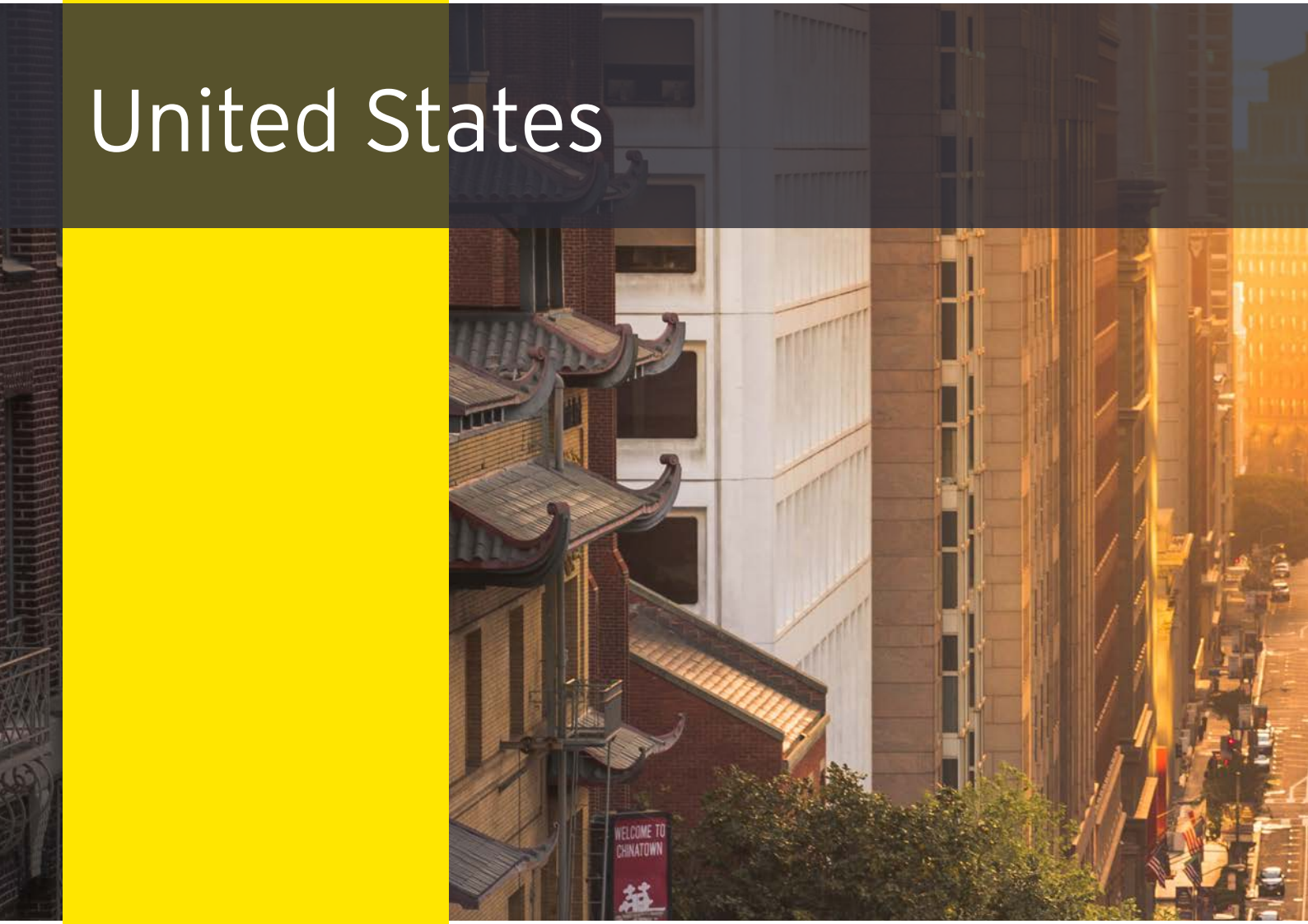
11.1 Unilateral rules

When an asset is subject to tax overseas in a jurisdiction that does not have an estate tax treaty with the UK, unilateral rules will apply. Unilateral credit is given when inheritance tax and overseas tax are chargeable by reference to the same event and attributable to the value of the same property. In addition, the overseas tax must be similar in character to inheritance tax. The amount of tax relief given is capped at the lower of overseas tax paid and UK tax due.

11.2 Double-taxation treaties

The UK has concluded estate tax treaties with France, India, Ireland, Italy, the Netherlands, Pakistan, South Africa, Sweden, Switzerland and the United States.

United States



EY contacts:

Washington, DC

Ernst & Young LLP
1101 New York Avenue NW
Washington, DC 20005
United States

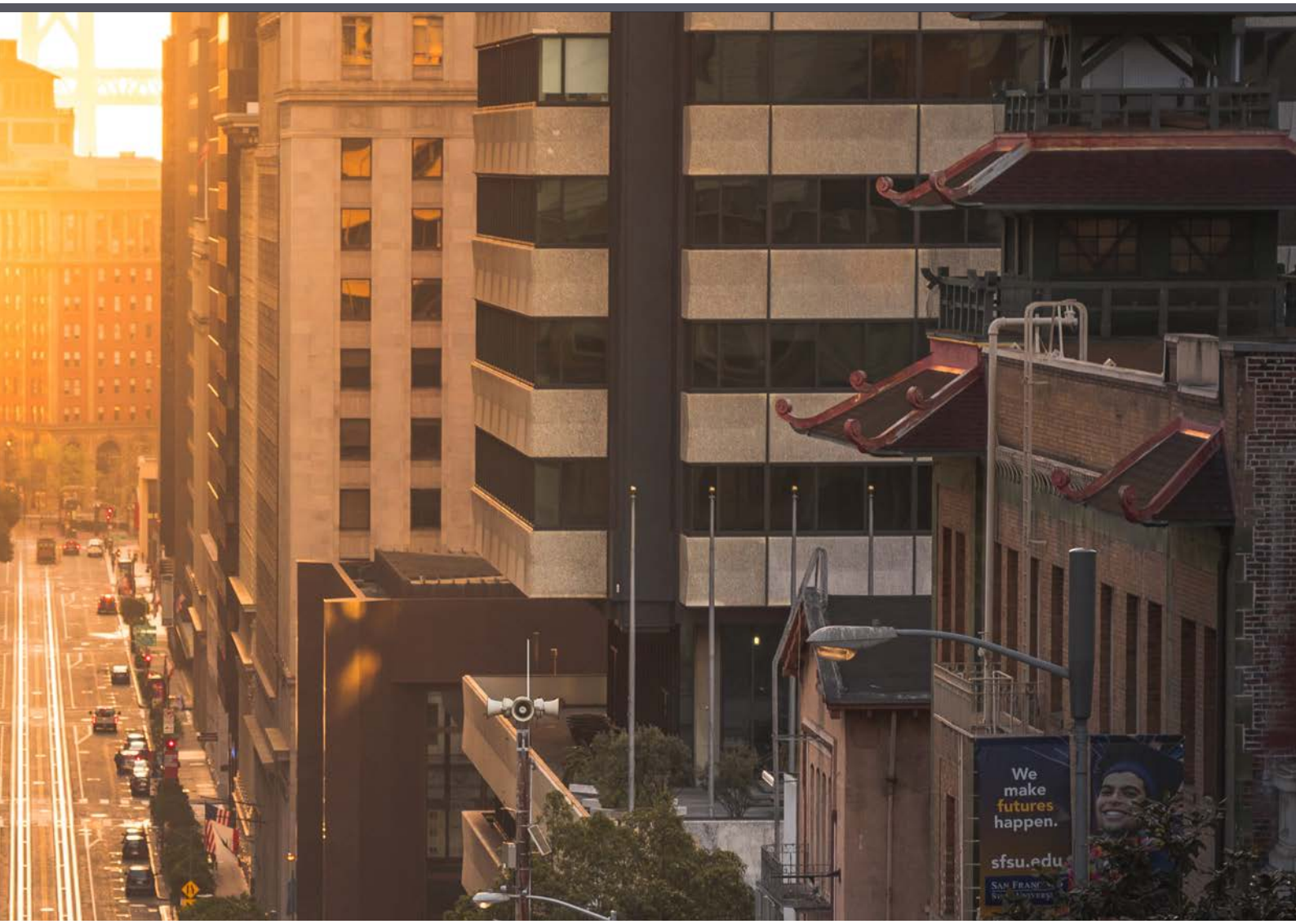
Marianne Kayan
marianne.kayan@ey.com
+1 202 327 6071

John Fusco
john.fusco@ey.com
+1 202 327 7754

1. Types of tax

1.1 Estate tax

The United States (US) imposes an estate tax on the transfer of a decedent's taxable estate at death. US citizens and residents dying after 31 December 2024 are subject to a top estate tax rate of 40% and are entitled to a USD13.99 million estate tax exemption. In 2026, the estate tax exemption is USD15.00 million and will continue to adjust annually for inflation in 2027 and future years. Nonresident aliens are also subject to a top estate tax rate of 40%, but their estate tax exemption amount is only USD60,000 and is not indexed for inflation.



The US imposes an estate tax liability on all US citizens and residents. See Section 2.2 for a discussion of who is a US resident and a nonresident alien for estate tax purposes. The estate tax will ultimately be assessed upon the taxable estate (i.e., the gross estate, less applicable deductions). For a US citizen or resident, the gross estate is the fair market value (FMV) of a decedent's worldwide assets at date of death; the taxpayer may also elect an alternative valuation date six months after date of death. See Section 5.1 for filing procedures.

For an individual who is neither a US citizen nor a US resident (i.e., a nonresident alien), the gross estate includes only US *situs* property owned at death. The Internal Revenue Code (IRC) determines the *situs* of different types of property, the treatment of which may be modified through the application of estate and gift tax treaties that the United States has concluded with various countries (see Section 11). Under the IRC, US *situs* property includes real and tangible personal property located in the United States, stock or options issued by a US corporation, debt of a US person (except portfolio debt), deferred compensation and pensions paid by US persons, and annuity contracts enforceable against US obligors. It does not include US bank deposits, insurance on the life of a nonresident alien, stock issued by non-US corporations or pensions payable by non-US persons.

Retained interests

Due to retained interest rules, the reach of the estate tax is broader than simply the assets a decedent owned at death. Notwithstanding attempts to make lifetime transfers, some transferred property may be deemed to remain within the decedent's gross estate at his or her death. The following retained interests may be included in a decedent's gross estate:

- Certain gifts made within three years of death
- Transfers with a retained life estate
- Transfers taking effect at death
- Certain annuities
- Interests owned jointly
- Transfers that provide for broad powers of appointment
- Revocable transfers

The retained interest rules also apply to the estate of a nonresident alien. The definition of the gross estate of a nonresident alien is "that part of his gross estate … which at the time of his death is situated in the United States." Therefore, the estate will be subject to the same definitions of retained interests or powers as those that apply to the estate of a US citizen or resident alien — limited by the *situs* rules.

Situs rules provide that property subject to the retained interest transfer rules will be deemed situated in the US if such property was so situated either at the time of transfer or the time of death. This presents a number of issues for estate planning with respect to nonresident aliens. A transferor should, therefore, remain aware that transferring US property into a foreign entity may not convert the property to foreign *situs* property, even if the foreign entity no longer holds US property at the date of death.

Basis

All property subject to the estate tax receives a step-up in basis to its FMV on the day of the decedent's death. Each transferee's basis in property received by a decedent is its FMV for federal income tax purposes, regardless of the transferor's historical cost or basis adjustments.

State estate tax

Many states have a state-level estate tax. Where such taxes apply, the state-level estate tax is normally significant. Also, state tax rules for determining residence do not necessarily parallel the federal rules. Therefore, any nonresident alien should also seek state tax advice to determine potential estate tax and informational filing requirements for property situated in a given state. A decedent's estate may be permitted an estate tax deduction at the federal level for any state estate taxes paid.

1.2 Gift tax

US citizens and resident aliens are subject to gift tax on transfers of all property, tangible and intangible, regardless of the location of the property. See Section 2.2 for a discussion of who is a US resident and a US nonresident alien for gift tax purposes. Gift tax applies to the FMV of the transferred assets as of the date of the gift.

An annual, per-donee exclusion (annual exclusion) exists that is indexed for inflation (USD19,000 in 2025), which offsets tax on gifts of present interests. Transfers on behalf of a donee directly to a service provider for qualifying medical expenditures or to an educational institution for educational expenditures are entirely exempt from the gift tax.

US citizens and resident aliens are subject to a top gift tax rate of 40% and are entitled to USD13.99 million for 2025, and then a USD15.00 exemption in 2026, which will be adjusted for inflation in 2027 and future years. The US gift and estate tax are unified — there is only one exemption for both gift and estate tax purposes. Therefore, gifts made during an individual's lifetime will reduce his or her estate tax exemption.

Gifts by US citizens or resident aliens to a US citizen spouse are entitled to an unlimited marital deduction and, therefore, do not incur gift tax. However, for transfers to a non-US citizen spouse, there is a special increased gift tax annual exclusion (USD190,000 in 2025 as indexed for inflation). This is an annual limitation. See Section 5.2 for filing procedures.

Unlike US citizens and residents, nonresident alien individuals do not receive a lifetime gift tax exemption, but they are entitled to use of the annual exclusion amount. Thus, every transfer of US situs property by a nonresident alien in excess of the gift tax annual exclusion (USD19,000 in 2025) is subject to gift tax. Nonresident aliens must generally pay gift tax on transfers of real property and tangible property located in the US. Intangible property, including stocks and bonds, is generally exempt. Nonresident aliens, citizens and residents share the same gift tax rates. See Section 2.2 for a discussion of who is a US resident and a US nonresident alien for gift tax purposes.

Basis

Generally, the donee takes the gifted property at the same income tax basis as it had in the hands of the donor (i.e., "carryover" basis). However, if the FMV of the property at the time of the gift is lower than the donor's adjusted basis, the donee must use the FMV at the time of gift as the basis for computing loss on a subsequent sale of the property. Additionally, the donee's basis may be increased by all or part of the gift tax actually paid by the donor.

State gift tax

Currently, only Connecticut imposes a state-level gift tax, at rates ranging up to 12%.

1.3 Real estate transfer tax

Individual states, counties and municipalities may impose a transfer or recordation tax on conveyances of real property. Generally, the transferor (individual or entity) remains liable for any tax due upon transfer; however, local customs vary as to how such costs are allocated among the transferor and transferee. Furthermore, indirect transfers of real estate through the sale or exchange of stock or partnership interests may also result in transfer taxes if the entity itself owns real estate. Although no federal transfer or recordation tax exists upon a transfer of real estate, if the underlying transfer constitutes a sale, the transaction may trigger both state and federal income taxes. Exceptions may apply in situations where no change in the beneficial ownership of the property occurs (e.g., when the transfer occurs for purposes of securing financing or if the owner transfers property to a revocable trust controlled by the original property owner).

1.4 Endowment tax

No endowment tax laws exist in the US.

1.5 Inheritance tax

The US does not impose an inheritance tax at the federal level. However, a minority of states independently retain inheritance tax regimes. Generally, these state-level inheritance tax provisions do not impose taxes on transfers to spouses and descendants. Although, in the limited circumstances where state inheritance taxes do apply, the impact can result in significant tax implications, with rates ranging up to 18%.

1.6 Net wealth tax

US federal law does not impose a net wealth tax, but individual localities may impose such a tax on certain real and personal property interests. If at all, property subject to tax at the state and local level includes real estate, vehicles, boats, aircraft, livestock and intangible personal property. The tax generally only applies to real property or personal property physically situated within the specific taxing locality. Intangible property, if taxed at all, is generally taxable only to individual taxpayers residing within the locality, whereas personal property used in a trade or business carried on in the state or locality can subject individuals to tax based on their contacts with a taxing jurisdiction instead of on the basis of their residence.

1.7 Expatriation (exit) tax

Effective since 17 June 2008, the US exit tax regime subjects certain individuals known as "covered expatriates" to immediate taxation on the net unrealized gain on their property exceeding USD600,000 (indexed for inflation; USD890,000 for 2025). The tax treats covered expatriates as if they sold their worldwide property for FMV the day before expatriating or terminating their US residency. In general, covered expatriates include US citizens and long-term residents (green-card holders for any part of 8 tax years during the preceding 15 years) who have a five-year average income tax liability exceeding USD124,000 (indexed for inflation; USD206,000 for 2025) or a net worth of USD2 million or more. This treatment applies to most types of property interests held by individuals.

The above rules also affect the taxation of certain deferred compensation items (including foreign and US pension plans), interests in and distributions from non-grantor trusts and certain tax-deferred accounts (e.g., 529 plans, Coverdell education savings accounts and health savings accounts) by accelerating the taxation of these amounts absent certain exceptions.

At the election of the taxpayer and subject to Internal Revenue Service (IRS) approval, the expatriating taxpayer may defer payment of the exit tax upon presentation of adequate security. This tax deferral election remains irrevocable, carries an interest charge and requires the taxpayer to waive any treaty rights with respect to the taxation of the property.

Additionally, US citizens or resident aliens receiving gifts or bequests on or after 1 January 2025 of more than the gift tax annual exclusion (USD19,000 in 2025) from covered expatriates are taxed at the highest gift or estate tax rate currently in effect (40% in 2025) (the Section 2801 tax). The tax applies to gifts and bequests received directly or indirectly, including gifts and bequests received via trusts settled by a covered expatriate. See Section 5.2 for more detail about covered distributions from trusts.

1.8 Generation-skipping transfer tax

In 1986, the US Congress enacted a generation-skipping transfer (GST) tax designed to prevent wealthy individuals from transferring property to heirs more than one generation removed from such individuals and thereby allowing that property to pass without any estate or gift tax liability assessed to the generation(s) in between the transferee and transferor. The GST tax is imposed on all direct transfers to "skip persons" and on "taxable distributions" and "taxable terminations" by

trusts that have skip persons as beneficiaries. The GST tax is in addition to any gift or estate tax that may be assessed on a transfer. The IRC defines a skip person as someone who is two or more generations below the transferor or a trust for which all beneficiaries are skip persons. Generation-skipping transfers that are subject to GST tax are taxed at a rate of 40%. There is a GST exemption of USD13.99 million for 2025 available to US citizens, US residents and non-US residents. This exemption grows to USD15.00 million in 2026, and will be adjusted for inflation in 2027 and future years. The GST exemption is in addition to the gift and estate tax exemption.

General

The GST tax potentially applies to all transfers of a US person's worldwide assets. See Section 2.1 for an analysis of who is deemed a US person. As stated above, the GST tax applies to any transfer from one taxpayer to a skip person or any donee assigned to a generation two or more generations below the transferor. For taxable terminations, a trust is liable for the GST tax on the FMV of the assets in the trust at the time of the taxable termination. For taxable distributions, the beneficiary is liable for the GST tax on the FMV of the property received. For direct skips, the transferor is liable for the GST tax on the FMV of the property transferred at the time of the transfer.

A nonresident alien can transfer non-US *situs* property without the transfer triggering GST tax, but transfers of US *situs* property do trigger GST tax — whether covered by applicable exclusions or exemptions or taxable in nature. The definition of US *situs* property depends upon whether the transfer constitutes a gift or bequest. Lifetime gift transfers use the same *situs* rules as the gift tax, and bequests use the same *situs* rules as the estate tax. In addition to the application of the general *situs* rules, estate and gift tax treaties the US has concluded with various countries may also modify the *situs* and treatment of an asset. See Section 11. Additionally, the GST tax also excludes property exempt from taxation by the gift tax annual exclusion or the qualified educational and medical expenses exclusion.

GST tax exemption

A taxpayer may irrevocably allocate GST tax exemption to any property transferred during life or at death. The individual or the individual's executor can make the election on a timely filed gift or estate tax return. GST tax exemption is automatically allocated to direct skip transfers and indirect skip transfers (a transfer to a trust in which skip persons are beneficiaries) up to the total amount of the transferor's remaining GST tax exemption, without further action by the transferor to affirmatively alter this allocation.

2. Who is liable?

2.1 Residency

General

US law imposes income taxes on US persons — defined as US citizens and US residents — with respect to their worldwide income and imposes transfer taxes on their worldwide assets. However, income tax law determines residence differently from the way that the US transfer tax (gift, estate and GST tax) law determines residence.

Income tax residence

US income taxation based on residence applies to US citizens and US residents. US residence is determined under two tests — substantial presence test (SPT) and green-card test. The SPT calculates residence based on the number of days an individual spends in the US over a three-year period. An individual who is in the US 183 or more days in the current year or for 183 days or more during a three-year period, calculated using a weighted-average formula, is a US resident for income tax purposes.

Under the SPT, the sum of the total number of days of presence is determined by adding the total number of days of presence in the current year, plus one-third of the number of days in the first preceding year, plus one-sixth of the number of days in the second preceding year. Any day, or portion of a day, counts as a day of presence in the US. Exceptions and special rules are provided for individuals in the US due to a medical condition, students, teachers, commuters from Mexico and Canada, professional athletes and foreign government officials. There is also an exception to the SPT for foreign individuals who are US residents under the SPT but are present in the US for fewer than 183 days in the current year, have a tax home in a foreign country and have a closer connection to that home country than to the US. A closer connection is established if the individual maintains more significant contacts with a foreign country than with the US.

The green-card test is based on an individual's US immigration status and treats a person as a resident for US income tax purposes if the individual obtains lawful permanent resident status. A person who is not a US citizen and fails the SPT and the green-card test is considered a US nonresident alien for income tax purposes. In addition to these regulatory tests under US law, income tax treaties entered into between the US and other jurisdictions can alter the residence inquiries. Each treaty should be analyzed separately for residence impact.

During the first year of US residency, special rules apply to determine the exact start date of US residency. If an individual is considered a US resident during a specific year but was not a US resident at any time during the preceding calendar year, that individual is only a US resident for a portion of the year in question. The determination of the start date of residency depends upon which test the individual satisfies for US resident status (e.g., SPT or green-card test). Under the SPT, residency generally begins on the first day of presence in the US for the year, but up to 10 days of actual presence can be ignored if the individual had a closer connection to a foreign country and maintained a tax home in a foreign country. Under the green card test, residency begins on the first day of the calendar year in which the individual was present in the US as a lawful permanent resident. If a person meets both residency tests, residency begins on the earlier of the first day of presence under the SPT or the first day as a lawful permanent resident.

2.2 Domicile

In contrast to income tax residence, the US transfer tax laws determine an individual's residence with a subjective inquiry into the individual's "domicile" in a more subjective manner. A person acquires a domicile by living at a location — even for a brief period — while possessing no definite, present intention of later removing therefrom. Domicile depends on the facts and circumstances of each particular case. An individual has exactly one domicile — no more, no less — and once established, the individual must explicitly exhibit the intent to leave the old domicile in favor of a new one. Courts in the US have relied on several distinct factors when attempting to discern an individual's domicile. These include immigration status, written statements of intention, such as those included in wills, visa applications, trust agreements and deeds, the time spent in the US in comparison to other countries, the location and size of the individual's residences, as well as business, family, social and religious attachments. No single factor is determinative, and each case will depend upon the totality of the circumstances.

Nonresident aliens

A nonresident alien is defined as any individual who is not a US citizen or resident. For transfer tax purposes, residence is defined by domicile, so a person is a nonresident alien when the person is not domiciled in the US. Nonresident aliens are not considered US persons for estate, gift and GST tax purposes.

Nonresident aliens for estate and gift tax purposes do not receive the same gift and estate tax exemption as US residents. Nonresident aliens are not subject to taxation on worldwide assets; instead, their US estate, gift and GST tax bases include only those assets deemed situated in the US.

3. Rates

A unified tax rate schedule applies to gift and estate taxes. The estate tax directs the application of this unified schedule for computation of tax to lifetime transfers and transfers at death, cumulatively, and then subtracting the amounts previously subject to gift tax on lifetime transfers. In doing so, the unified rate schedule attempts to subject all property transfers to tax liability under the gift tax or estate tax, and in return, each individual receives the benefit of a single unified credit.

The following gift and estate tax rate schedule applies to transfers of property by gift for US citizens and residents and transfers of US situs property by gift for nonresidents occurring in 2025. For US citizens and US residents, a USD13.99 million gift and estate exemption amount exists in 2025, and then a USD15.00 million gift and estate exemption in 2026, adjusted for inflation in 2027 and future years. Nonresident aliens are limited to a USD60,000 estate tax exemption and a USD Zero gift tax exemption, other than the gift tax annual exclusion. The same rate schedule applies.

Column A (USD)	Column B (USD)	Column C (USD)	Column D (USD)
Taxable amount over	Taxable amount not over	Tax on amount in column A	Rate of tax on excess over amount in column A
0	10,000	0	18%
10,000	20,000	1,800	20%
20,000	40,000	3,800	22%
40,000	60,000	8,200	24%
60,000	80,000	13,000	26%
80,000	100,000	18,200	28%
100,000	150,000	23,800	30%
150,000	250,000	38,800	32%
250,000	500,000	70,800	34%
500,000	750,000	155,800	37%
750,000	1,000,000	248,300	39%
1,000,000	No upper limit	345,800	40%

4. Exemptions and reliefs

4.1 Estate tax deductions

Administrative expenses, debts, taxes and losses

Deductions for funeral and administrative expenses, debts and losses may reduce the gross estate of a US person. However, the estate tax law limits these deductions for most nonresident aliens. A nonresident alien determines the deductible portion of these expenses by a fraction – the total US *situs* property as the numerator and the estate determined as if the decedent were a US citizen or resident as the denominator (i.e., the decedent's worldwide gross estate). Calculation of the nonresident alien's total deductible expenses occurs by multiplying the deductible expenses by this fraction. A case where a decedent owns US real property subject to a recourse mortgage illustrates this limitation on deductions. The estate must include the real property at its full date of death value, but the estate may only deduct the percentage of the mortgage represented by the US property's value in relation to the decedent's worldwide assets at death. Additionally, the estate must substantiate this deduction by providing the US taxing authorities with a certified copy of the foreign inheritance tax returns reflecting the worldwide assets. In some special situations, the provisions of US estate and gift tax treaties may allow full deductibility.

Charitable deduction

US citizens and residents receive a charitable deduction for the entire value of any property donated to a qualifying charitable organization located anywhere in the world upon death. Nonresident aliens are also entitled to a similar charitable deduction for gifts to a qualifying charity. To receive this deduction, a nonresident alien decedent must disclose the full value of all worldwide assets. The deduction for nonresident aliens differs from the deduction for US citizens and residents. First, the deduction is only applied to the nonresident alien's US gross assets. Second, nonresident aliens only receive a charitable deduction for property passing to a US-based charity.

Marital deduction for bequests to US spouse

US citizens, US residents and nonresident aliens receive an unlimited marital deduction for all bequests to US citizen spouses. The law limits the applicability of the marital deduction allowance to transfers to a non-US citizen spouse.

The estate tax allows portability of the estate tax exemption of a deceased US citizen or US resident to a US citizen or US resident surviving spouse. The availability of a portability election on behalf of a non-US citizen, non-US resident surviving spouse is limited to certain circumstances, including application of certain treaties. Portability of the estate tax exemption permits a surviving spouse to utilize any remaining unused estate tax exemption of the predeceased spouse. A major focus of US estate tax planning for married couples is to make certain that each spouse fully utilizes his or her estate tax exemption, because full utilization of both exemptions allows a married couple to double the amount that they pass free of estate tax. Portability allows for this full use of the estate tax exemption without the need to utilize tax savings trusts or other tax planning techniques on the first spouse's death. However, because these rules are not applicable to noncitizens and nonresidents, traditional estate tax planning minimization techniques should be considered for such persons. The portability election is made on the decedent spouse's estate tax return.

Marital deduction for bequests to non-US spouse

The law prohibits a marital deduction for a transfer to a non-US citizen spouse, even by a US citizen decedent. Instead, a special marital trust, called a qualified domestic trust (QDOT), allows for the deferral of the tax at the first death. This trust must have at least one US trustee possessing the obligation to withhold US estate tax from principal distributions from the trust. The deferred tax (at the rate applicable to the first decedent's estate but applied on the current asset value) becomes payable at the death of the surviving spouse or on earlier distributions of principal from the QDOT. The US has estate and gift tax treaties with some countries that allow an increased marital deduction for transfers to a noncitizen spouse without requiring that the assets be placed in a QDOT.

Exemption

In 2025, estates of US citizens and residents receive a credit against the estate tax that exempts the first USD13.99 million (as adjusted for inflation) in assets from taxation. This estate tax exemption unifies with the gift tax exemption in the sense that lifetime transfers of property in excess of the statutory annual exclusion amounts reduce the estate tax exemption. The estate of a nonresident alien receives an estate tax exemption of USD60,000, although some US estate tax treaties allow a higher amount. Effectively, this means that US estate tax will capture many estates of nonresident aliens who die owning US *situs* assets.

5. Filing procedures

5.1 Estate tax

The decedent's estate — a separate legal entity and taxpayer — comes into existence on the date of the decedent's death and continues to exist until the personal representative (also referred to as an executor or administrator) has distributed all of the decedent's property from the estate and properly taken action to close the estate. Therefore, the estate may have US income tax filing obligations during the years between the date of death and the date all property is distributed by the estate. The naming of the personal representative may occur through nomination in the decedent's will or by appointment in court if the decedent dies intestate (without a will). For estates of nonresident aliens, if no qualified US personal representative is appointed, then every person in possession of the decedent's property is required to file an estate tax return and may be liable for any US estate tax due.

The estate tax return for a US citizen or resident is Form 706. For nonresident aliens, it is Form 706-NA. All Forms 706-NA are filed with the Internal Revenue Service Center in Kansas City, Missouri. The location for filing Form 706 will vary with the US citizen's or resident's domicile at death. The original due date for estate tax returns for all estates is nine months following the date of death. An estate can request an extension of an additional six months to file the return, but the tax must be paid by the original due date to avoid interest and potential penalties.

Consistent-basis reporting requirements, effective for estate tax returns filed after 31 July 2015, ensure beneficiaries use the same basis for inherited property as was reported on the decedent's estate tax return. To curb perceived abuses, the rules state that a beneficiary may not utilize a higher basis on a subsequent disposition of inherited property than was finally determined for estate tax purposes (unless, of course, the beneficiary has taken action to increase the basis of the property, such as by making permanent improvements to inherited real property). When an estate must file Form 706, the executor must report on Form 8971 the basis of each asset to the IRS and the beneficiary who received the asset. Form 8971 must be filed within 30 days of the due date for filing Form 706.

5.2 Gift and GST tax

The reporting of gifts and generation-skipping transfers made during life occurs on Form 709. In general, a taxpayer must file this return for any calendar year that the taxpayer makes a transfer by gift to a person, other than the donor's US citizen spouse, either: (1) of a present interest at a value in excess of the per-donee annual exclusion (even if no tax is due after application of the gift tax exemption) that does not meet the requirements of a qualified education or qualified medical expense; or (2) of any future interest. Tax is imposed on the FMV of property at graduated rates determined by the individual's cumulative lifetime transfers on the date of the gift.

In addition to GST tax, taxpayers should also report allocations of GST exemption on a timely filed Form 709. Timely filed returns result in allocations effective as of the day of the transfer; late-filed allocations result in allocations effective on the date of the filing. In the year of death, the decedent's executor may make an allocation election on a timely filed estate tax return.

US citizens or residents (as defined for income tax purposes) must report gifts or bequests from foreign sources. Gifts received in 2025 from foreign corporations or foreign partnerships in excess of USD20,116 (adjusted for inflation), in the aggregate, are reported on Form 3520, Part IV. The IRS also requires gifts from foreign individuals or foreign estates to be reported once the aggregate gifts exceed USD100,000 on Form 3520, Part IV. The IRS can impose substantial penalties for failure to report such gifts or bequests.

The primary liability for the gift tax due to the IRS falls on the donor of the gift. This liability transfers to the executor or administrator of the estate of the decedent as a liability of the estate if the tax remains unpaid at the time of death. In the event gift tax remains unpaid, gift tax liability can also be enforced on the donee or through the imposition of a gift tax lien for up to 10 years on the transferred property. The donor of property must pay the gift tax at the time and place for filing the gift tax return — as determined without regard to filing extensions. Furthermore, if a donor dies before filing any required gift tax returns, the executor or administrator of the estate of the decedent must file such returns. The primary liability for GST tax rests with the transferee on payments of taxable distributions, rests with the trustee on taxable termination events and rests with the transferor on direct skip transfers. Secondary liability is determined in the same manner as secondary liability for gift taxes.

5.3 The Section 2801 tax

Unlike the estate, gift and GST taxes, the Section 2801 tax is paid by a donee who receives a gift or bequest from a covered expatriate on or after 1 January 2025. The donee must file Form 708 to report gifts and bequests from covered expatriates in excess of the gift tax annual exclusion amount (USD19,000 in 2025). The tax applies at the highest estate/gift tax rate in effect for the year of the gift or bequest (40% in 2025). The tax applies to gifts and bequests received directly or indirectly, including gifts and bequests received via trusts settled by a covered expatriate.

The applicability of the Section 2801 tax in respect of trusts depends on when the trust was funded and whether the trust is foreign or domestic, and whether it is a completed gift or incomplete gift. Completed gift foreign trusts funded prior to 17 June 2008, and completed gift domestic trusts funded prior to 1 January 2025, are outside the scope of the Section 2801 tax, regardless of when distributions are made. Distributions from incomplete gift trusts (whether foreign or domestic), and from completed gift foreign trusts, each funded 17 June 2008 or later, will be subject to the Section 2801 tax. The settlement of a domestic completed gift trust from 1 January 2025 will subject the trust (rather than its beneficiaries) to the Section 2801 tax, as well as the domestication of a foreign completed gift trust, and the election by a foreign trust to be treated as a domestic trust for Section 2801 tax purposes (an Electing Foreign Trust).

The Section 2801 tax does not apply to transfers of property for which the covered expatriate has timely filed a federal estate or gift tax return, and for transfers to spouses (subject to the marital deduction rules) and certain charities.

6. Assessments and valuations

The value of a US citizen's or resident's gross estate is the value at the time of his or her death of all property, real or personal, tangible or intangible, wherever situated. The IRC does not prescribe how this value is to be determined. The estate and gift tax regulations, however, contain extensive valuation rules. These valuation rules are accompanied by prescribed actuarial and interest rate tables.

The general rule for determining value for estate and gift tax purposes is to determine an asset's FMV. FMV is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of the relevant facts. The FMV of a particular item of property includable in the decedent's gross estate, or for purposes of computing the value of a taxable gift, is not to be determined by a forced sale price.

Also, the FMV of an item of property is not to be determined by the sale price of the item in a market other than that in which the item is most commonly sold to the public, taking into account the location of the item wherever appropriate. The latter rule contemplates that when property of a US taxpayer (perhaps resident in a foreign jurisdiction) is outside the US, the valuation should occur in the relevant foreign market, rather than by reference to values for that or similar property existing in a US market.

7. Trusts, foundations and private purpose funds

7.1 In general

As a practical matter, US succession planners use trusts when a donor wishes to place certain constraints on the access of the proposed donee to the trust property. If succession serves as the objective of the transfer in trust, the donor must retain neither influence nor control over the trustees or the property placed in trust to avoid having the property placed in trust being brought back into the donor's estate and subject to estate tax.

7.2 Types of trusts

Various types of trusts exist in the US, but most fit the classification of either grantor, simple or complex. Grantor trusts are ignored for US income tax purposes as separate taxable entities from the grantor as a consequence of the grantor's retention of certain powers over the property in the trust. In the case of a grantor trust, the grantor is treated as owning the property held by the trust for US income tax purposes (although not necessarily for estate tax purposes). Simple trusts are non-grantor trusts that require trustees to distribute all of the trust's current income to one or more beneficiaries annually. Trusts that are not grantor or simple are complex. Absent specific powers vested in a beneficiary, the law does not require estate inclusion of the underlying trust assets in the beneficiaries' estates. Trusts work extensively in conjunction with probate avoidance and estate planning for non-US citizens; specifically, a common practice is to use a QDOT trust created by will to benefit a non-US citizen spouse (see discussion under "Marital deduction for bequests to non-US spouse" in Section 4.1) or a qualified terminable interest property (QTIP) trust for US citizen spouses.

7.3 Trust location

Non-US persons who obtain US residence and who are settlors or beneficiaries of trusts that have been created for estate or gift tax planning in other jurisdictions may encounter unexpected US tax results if they do not seek advice before establishing US residence. This occurs because the US rules that apply to foreign trusts with US beneficiaries and settlors may apply once they become US residents. We outline these extensive rules briefly below, but non-US persons who subsequently acquire US tax residence while retaining an interest in a non-US trust should seek advice of a US tax professional.

7.4 Outbound transfers by US person or domestic trust

Trusts with US beneficiaries

A US citizen or resident who creates a foreign trust over which he or she has no control or power may nevertheless be subject to tax on the income under the US grantor trust rules. These rules provide that, in a year where the trust has a beneficiary who is a US person, any transfer made by a US resident or citizen to a foreign trust will cause grantor trust treatment, at least as to the portion attributable to that transfer to the US resident beneficiary. The grantor trust rules presume foreign trusts have US beneficiaries, unless the transferor can establish that no part of the income or principal of the trust benefits or could benefit a US person. Grantor trust treatment may also extend to transfers made to foreign trusts by foreign individuals who later become US residents within five years of the transfer (for further discussion, see Section 7.6). The US tax law treats any transfers made within that five-year period as though the foreign settlor made the transfer on the date the settlor's US residence begins.

Foreign beneficiary becomes US resident

The taxation of a foreign beneficiary who becomes a US income tax resident will be impacted by the classification of the trust as a foreign grantor trust or as a foreign non-grantor trust. First, if the settlor of the trust was not a US person, then under very limited circumstances will the trust be classified as a grantor trust, causing the beneficiary to receive a gift, rather than a taxable distribution. Next, if the trust was created by a US person and is classified as a grantor trust, then the income tax ramifications flow to the settlor. The more complex case is where a trust is or has become a foreign non-grantor trust; a US beneficiary is subject to tax on distributions from a foreign non-grantor trust and it is possible that an additional throwback tax on accumulated income and interest charge could apply.

7.5 Reporting

In addition to the required annual information return on Form 3520-A, the creation of, and transfers to or distributions from, foreign trusts are reportable for US citizens and residents on Form 3520. Penalties of up to 35% of the amount transferred may be applied for failure to report or late reporting.

7.6 Inbound transfers for foreign trusts with US beneficiaries

A nonresident alien who becomes a US income tax resident and who has created a trust within five years of establishing US residency may be treated as the grantor of the portion of the trust that the individual funded, if the trust has a US beneficiary. This result does not change because the beneficiaries of the trust were not US persons upon trust creation. If such a trust benefits the settlor or any of the settlor's family members who have become US residents, he or she will be taxed on the trust income and have US filing requirements on Forms 3520 and 3520-A. The penalty for failure to file Form 3520-A reaches 5% of the value of the trust corpus.

7.7 Transfers of appreciated assets by US persons to foreign trusts

US persons who transfer assets to a foreign trust must recognize gain for income tax purposes on the difference between the cost basis and the FMV of the appreciated assets. However, an exception from gain recognition for transfers to a grantor trust exists. Care is necessary, however, in the case of certain trusts, which are only considered grantor trusts because they have a US beneficiary under the rules described above, since they may become non-grantor trusts when the beneficiary ceases to be a US resident or dies. This can cause the appreciated assets in the trust to be treated as though they were transferred to a foreign trust, triggering gain recognition. For trusts that may become non-grantor trusts when the settlor ceases US residency, the settlor should seek US tax advice before ending his or her residency in the US.

8. Grants

With regards to estate taxes, there are no specific rules in the US.

9. Life insurance

Life insurance can serve as an important asset on the life of a decedent in the US. A person with an insurable interest — an articulable interest in the continued life of a person — can choose one or more varieties of policies, including whole life, term life, accidental death, joint life, universal life and variable life. The person or entity that retains incidents of ownership (e.g., power to change a beneficiary, assign the policy, use the policy as collateral for loans, reversionary interest, settlement options or surrender the policy) over the policy garners treatment as the owner for US tax purposes. The concept of incidents of ownership is intentionally broader than the technical definition and concept of ownership in other areas of the law.

Life insurance ownership can provide many benefits to an estate and survivors of a deceased individual. First, life insurance proceeds can provide enough cash without having to liquidate assets within the estate to pay debts that survive a decedent and any tax bills arising as a result of death. Second, the death benefit can create a larger pool of assets for more modest estates to assure adequate security and funds for survivors. Third, amounts paid from a life insurance policy can assist business colleagues of the decedent to accumulate funds sufficient to purchase ownership interests left for their procurement.

While life insurance can provide many benefits to a broad group of individuals surviving a decedent, it does not come without limitations. First, if the owner of a life insurance policy is also the person insured by the policy, the death benefit paid is included in his or her estate without regard to the identity of the recipient. This creates the potential for transfer tax implications (e.g., a GST tax liability may arise if a payment is made to a skip person, or an estate tax liability could arise if the value of the policy included in the gross estate calculation takes the value of the estate over the estate tax exemption amount in the year of death). A possible way to mitigate the transfer tax implications is to have a person (other than the insured) or an irrevocable life insurance trust own a policy on the life of the insured. When properly structured and implemented, an irrevocable life insurance trust can purchase the policy on the life of an individual without the insured having any incidents of ownership with respect to the policy, thus allowing policy proceeds to be exempt from US estate tax in the estate of the insured. Where the insured already owns a policy on his or her own life, in order to keep the proceeds of the policy out of the estate of the insured, the policy can either be purchased by an irrevocable life insurance trust for full and adequate consideration in money or money's worth or transferred to the irrevocable life insurance trust, but such transfer must be made more than three years before death because of the retained interest rule that brings assets transferred within three years of death back into an estate.

The method of permissible beneficiary designation on life insurance policies differs from that of most other assets a decedent owns at death. An individual cannot name a beneficiary of a life insurance policy in a will or other at-death declaration; instead, the owner must make explicit recognition of the identity of the beneficiary of a policy prior to the death of the insured to the issuing company in the manner it requires.

Because life insurance is not considered a US *situs* asset to a nonresident, it can be an efficient mechanism for mitigating US estate tax exposure on US *situs* assets, such as real property and the equity securities of US issuers.

Note that the term "life insurance" has a technical definition under the IRC, which can result in some foreign policies failing to meet that definition and being subject to taxation in different ways than described above.

10. Civil law on succession

The US does not follow a civil law system.

10.1 Intestacy rules

The part of a decedent's estate that is not effectively disposed of by will is governed by the intestacy rules of the decedent's state of residence at death or the rules of the state where immovable property owned by the decedent is situated. Therefore, an attorney in that state should be contacted to determine the specific rules that apply to the property.

10.2 Probate

The Uniform Probate Code provides a model of provisions that states consider when drafting their legislation. By way of example, the intestacy provision of the Uniform Probate Code has been adopted in full by certain states, modified by others and not adopted by others. The provisions of the Uniform Probate Code are briefly described below. US legal advice should be sought regarding the intestacy statutes of any particular state as many states do not follow these rules in their entirety:

- Jurisdictions:
  1. Community property: one-half of the property belonging to the decedent passes to the surviving spouse as the intestate share.
  2. Separate property: share of the decedent's surviving spouse depends on the circumstances as follows:
     a. No children or parent of decedent survives decedent: entire intestate estate
     b. Spouse has same children as decedent: entire intestate estate
     c. No descendants of decedent but a parent survives decedent: first USD200,000 plus three-fourths of balance of intestate estate
     d. Decedent's children are also those of spouse, but spouse has other children: first USD150,000 plus half of balance of intestate estate
     e. One or more of decedent's children are not those of spouse: first USD100,000 plus half of balance of intestate estate
- Order of priority if no surviving spouse:
  1. To the decedent's descendants by representation
  2. If no surviving descendants, to the decedent's parents equally if both survive, or to the surviving parent
  3. If no surviving descendant or parent, to the descendants of the decedent's parents, or either of them, by representation
  4. If no surviving descendant, parent or descendant of a parent, one-half of the estate to the decedent's paternal grandparents equally if both survive, or to their descendants. The other half goes to the decedent's maternal grandparents in the same manner as the paternal grandparents. If there are no surviving grandparents or their descendants on either the maternal or paternal side, then the entire estate will pass to the decedent's relatives on the surviving side, in the same manner as the other half.

11. Estate tax treaties

The following table provides details on the US estate tax, gift tax, and combined estate and gift tax treaties currently in effect.

Country	Separate estate tax treaty	Separate gift tax treaty	Combined estate and gift tax treaty	Other	Signed	Transfers made on or after	Comments	
Australia	No	Yes	No	No	May 1953	14 December 1953		PR-UC***
Australia	Yes	No	No	No	May 1953	7 January 1954	Old*	PR-UC
Austria	No	No	Yes	No	June 1982	1 July 1954	New*	
Canada	No	No	No	1995 Protocol	March 1995	9 November 1995**	Estate tax only	PR-UC
Denmark	No	No	Yes	No	April 1983	7 November 1984	New	
Finland	Yes	No	No	No	March 1952	18 December 1952	Old	PR-UC
France	No	No	Yes	No	November 1978	1 October 1980	New	PR-UC (Protocol)
Germany	No	No	Yes	No	December 1980	1 January 1979	New	PR-UC (Protocol)
Greece	Yes	No	No	No	February 1950	30 December 1953	Old	PR-UC
Ireland	Yes	No	No	No	September 1949	20 December 1951	Old	
Italy	Yes	No	No	No	March 1955	26 October 1956	Old	PR-UC
Japan	No	No	Yes	No	April 1954	1 April 1955	Old	PR-UC
Netherlands	Yes	No	No	No	July 1969	3 February 1971	New	
Norway	Yes	No	No	No	June 1949	11 December 1951	Old	PR-UC
South Africa	Yes	No	No	No	April 1947	15 July 1952	Old	
Sweden	No	No	Yes	No	June 1983	5 September 1984 (through 31 December 2007)	New (ended 1 January 2008)	
Switzerland	Yes	No	No	No	July 1951	17 September 1952	Old	PR-UC
UK	No	No	Yes	No	October 1978	11 November 1979	New	

** Old or new refers to whether the treaty has the old situs rules or the new provisions that generally restrict the US to taxing US real estate and business property.*

*** The 1995 Canada-US Protocol had retroactive effect to the Technical and Miscellaneous Revenue Act of 1988 (TAMRA). Claims for refund based upon the treaty had to be filed by 9 November 1996.*

**** "PR-UC" in the comments section above refers to a pro rata unified credit provision. (The pro rata unified credit provisions in the German and French treaties apply only to estate tax, not to gift tax.)*

Inheritance and gift taxes at a glance

Americas

Country/territories	IHT/gift tax	Rate range	Comments
Brazil	Yes	0%-8%	Gift taxes and inheritance taxes (IHT) are regulated at state levels. Rates might vary depending on the location where the donor, donee or asset is domiciled and/or the transaction is concluded.
Canada	N/A	N/A	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/common-law partner or a dependent child/grandchild by reason of physical or mental infirmity. 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 and/or fishing property to children. Estates are taxed at the same rates as individuals for a limited period of time (for the first 36 months after the death of the individual if certain conditions are met), then at the top marginal tax rate applicable to individuals. Inter vivos trusts are taxed at the top marginal tax rate applicable to individuals (no graduated rates).
Chile	Yes	0%-25%	IHT applies on donations and inheritance received by a person or entity resident or domiciled in Chile, of assets located in Chile, and donations and inheritance in favor of a foreign entity or person, consisting of Chilean-source assets.

Country/territories	IHT/gift tax	Rate range	Comments
Mexico	N/A	N/A	Mexico's legislation does not recognize inheritance tax. Under Mexican law, succession is the legal means through which a person substitutes another on his or her rights and obligations due to the latter's absence. For Mexican tax purposes, a process must be observed that goes in hand with the civil process (i.e., at the beginning of the testamentary succession to distribute the assets or wealth for which a notice must be filed with the Mexican tax authority). The executor or the legal representative of an estate will pay income tax each year for the accounts of the heirs or legatees. The representative will consider the joint income until the settlement of the estate is deemed to have concluded. Such payments will be considered definitive, unless the heirs or legatees elect to include in their gross income the income corresponding to them, in which case, they may credit their pro rata share of tax paid. Inheritance is tax exempt when received by a Mexican tax resident. In the event that a resident abroad receives by inheritance shares issued by legal entities residents in Mexico or real estate located in Mexico, a tax rate of 25% on the appraised value of the assets will be applicable. Donations are tax exempt under certain conditions.
Peru	No	N/A	Peru's tax legislation does not establish an inheritance, gift or donation tax. However, donations that have not been carried out by means of a public deed or any other reliable document will be considered as an unjustified increase in wealth and therefore be taxed under the progressive accumulative income tax rates (8%, 14%, 17%, 20%, 30%).
United States	Yes	0%–40%	There was no change in transfer tax (i.e., estate, gift and GST tax) rates in 2024. Significant exemptions apply to US citizens and residents, but they are inapplicable or reduced for non-US residents.

Asia-Pacific

Country/territories	IHT/gift tax	Rate range	Comments
Australia	N/A	N/A	There is no inheritance or gift tax in Australia. However, in certain circumstances, an immediate income tax liability can arise upon death.
China Mainland	N/A	N/A	There is no inheritance tax or gift tax in China. From an estate and succession perspective, no real estate transfer tax is levied in China. However, an individual's direct or indirect transfer of real estate or land-use rights in China may be subject to individual income tax, value-added tax, deed tax, stamp duty and land appreciation tax.
Indonesia	N/A	N/A	Indonesia does not levy inheritance or gift tax. Regarding tax on gifts, Indonesian income tax law stipulates that grants or gifts from the parent directly to the children (or vice versa) are not taxable as long as there is no business or employment relationship and/or ownership or control among the parties concerned.
Japan	Yes	10%–55%	Inheritance tax is imposed on an individual who acquires property by inheritance or bequest upon the death of the decedent. Gift tax is imposed on an individual who acquires properties by gift (or economic benefit by deemed gift). Gift tax is supplementary to inheritance tax. Both taxes are national taxes, and no local tax is assessed on the transfer of property due to inheritance or a gift.
New Zealand	N/A	N/A	New Zealand currently has no form of estate duty, inheritance tax or capital transfer tax. Estate duty was abolished with effect for persons dying on or after 17 December 1992, and gift duty has been abolished for gifts made on or after 1 October 2011. Income tax liabilities may arise in relation to assets that are gifted, that transfer to executors or administrators on an individual's death, that are distributed to beneficiaries under a will or the intestacy rules, or that are distributed by trustees. The general rule deems the assets to have been disposed of and acquired at market value, which may result in income tax liabilities in relation to assets within the tax base. Exclusions and rollover relief may apply in some circumstances when transferees are spouses, civil union, or de facto partners or close relatives. Certain gifts made by employers to employees are subject to fringe benefit tax. Additionally, New Zealand's goods and services tax legislation includes rules for dealing with transactions when goods and services are supplied to final consumers at non-arm's-length terms.

Country/territories	IHT/gift tax	Rate range	Comments
Philippines	Yes	**Gift tax:** 6% **Estate tax:** 6%	**Gift or donor's tax:** The donor's tax of 6% is imposed based on total net gifts in excess of PHP250,000 made during the calendar year, regardless of whether the gift is made to a relative or a stranger. **Estate tax:** The net estate of every Filipino decedent, whether resident or nonresident, as well as resident alien decedent, shall be subject to estate tax at a uniform rate of 6% based on the value of such net estate. The amount of PHP5 million is deductible without question.
Singapore	N/A	N/A	There is no inheritance tax or estate duty (removed for deaths occurring on or after 15 February 2008).
South Korea	Yes	10%–50%	Inheritance tax is levied on worldwide properties if a deceased is a resident. However, if the deceased is a nonresident, then only properties located within the territory of South Korea are subject to inheritance tax. Gift tax is levied on worldwide properties received by a resident recipient. A donee who is a nonresident on the day of the donation is obligated to pay gift taxes only in respect of that donated property located within the territory of South Korea. Progressive tax rates for both taxes are applied depending on the amount of the tax base (i.e., value of assets transferred less qualified deductions). An exit tax regime has been introduced for departures occurring on or after 1 January 2018. It is imposed on the unrealized capital gains of South Korean shares held by South Korean tax residents who emigrate to a foreign country as if the shares are sold on the day that the emigration takes place. The regime applies to shares of domestic companies, including, but not limited to, "land-rich companies" and to majority shareholders (1% or more ownership in the case of listed corporations) who have had a domicile or place of residence in South Korea for five years or more during the past 10 years. The tax rate is 20% (22% including local income tax) on capital gains less than or equal to KRW300 million, and an additional 25% (27.5%, including local income tax) on gains in excess of KRW300 million.
Thailand	Yes	5%–10% with exemption threshold	Thailand enacted laws governing receipt of inheritance and gift during late 2015, and they have been effective since February 2016. Inheritance tax is levied on the value of particular assets received by the descendants after the death of the owner, while gift tax is applicable on the assets received before death. Otherwise, Thailand generally currently does not impose estate tax, endowment tax or wealth tax.

EMEIA

Country/territories	IHT/gift tax	Rate range	Comments
Austria	N/A	N/A	Austrian inheritance and gift taxes were abolished as of 1 August 2008. However, a new endowment tax was introduced, which can apply for donations to trusts and foundations.
Belgium	Yes	0%-80%	The transfer of property is subject to either inheritance tax or gift tax, depending mainly on whether the transfer takes place before or at the time of the gratifying party's death. Inheritance tax is levied in Belgium on the transfer of property upon death. There are two types of inheritance tax: succession tax and transfer tax. Gift tax is levied in the form of registration duties on the value of goods – movable or immovable – gifted during one's lifetime. The applicable tax rates vary depending on the region, the beneficiary and the taxable amount.
Bulgaria	Yes	0.4%-6.6%	Transfer of property might be subject to inheritance, gift or transfer tax, depending on whether the transfer takes place before or after the death of the testator, as well as on the availability of consideration or the lack thereof.
Cyprus	N/A	N/A	N/A
Czech Republic	N/A	N/A	The income from inheritance is fully tax exempt for both legal and private persons. Gift tax is incorporated into the income tax.
Denmark	Yes	0%-52.07% (approx.)	Both gift and inheritance taxes are levied on the transfer of assets at death or by gift. The tax is either 0%, 15% or 36.25% depending on the relation between the donor/deceased and the recipient/heir. However, gifts may be subject to ordinary income taxation of up to approximately 52.074% (2025). In some cases, the rate may in the future be reduced to 10%.
Finland	Yes	0%-33%	Inheritance tax is levied on the individual share of each beneficiary and not on the estate of the deceased as a whole. Gift tax is levied on the following types of property received as a gift: (1) any property if the donor or the beneficiary was a resident in Finland at the time that the gift was made, (2) real property situated in Finland, and (3) shares or other rights in a corporate body where more than 50% of the total gross assets of that corporate body consists of real property situated in Finland.

Country/territories	IHT/gift tax	Rate range	Comments
France	Yes	5%–45%	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. Subject to territoriality rules, tax must be paid in France when the deceased was a French resident, the heirs are French residents or the assets are located in France. Gift tax is due in France on a gift when the donor or the donee is a French resident or when the gift concerned is an asset located in France. Gift tax is, in principle, due from the donee. However, it may be paid by the donor without such payment being considered a supplemental gift. In principle, gifts follow the same tax rules as estates subject to certain differences.
Germany	Yes	7%–50%	Germany has a unified inheritance and gift tax (ErbSt) that is imposed on any transfer of property at death or by gift (or by deemed gift). The basis of assessment is the benefit accruing to the transferee (beneficiary or donee), not the estate itself. It is levied on the property transferred worldwide if the transferor or the transferee is a German tax resident, otherwise on property regarded as situated in Germany. The applicable tax rate depends on the tax class of the acquirer and the value of the taxable acquisition. The tax assessment basis is the taxable value of the assets transferred after exemptions and reliefs.
Gibraltar	N/A	N/A	There is no inheritance tax, estate duty, wealth tax or similar taxes in Gibraltar. Stamp duty is payable on the change in ownership of real estate property located in Gibraltar, irrespective of the residency or domicile of the owner of the property. Stamp duty is payable on other capital transactions in limited circumstances; where payable it would apply irrespective of the residency or domicile of the beneficial owner of the shares or loan instrument.
Greece	Yes	0%–40%	Greek legislation provides for inheritance tax or donation tax on assets transferred through inheritance or donation depending on, among other factors, the location of the assets and the nationality and residence of the donor and the heir/beneficiary. The applicable rates vary depending on the relationship between donor and heir/beneficiary. Tax-free allowances and exemptions from inheritance or donation tax may apply in some cases. Transfer of real estate property is also subject to transfer tax. Exemptions may apply in some cases.
India	N/A	N/A	There is no IHT/gift tax currently. Income tax is leviable in the hands of the recipient on certain specified transactions that are akin to gifts. Tax rates apply depending on the slab the individual falls into and the tax regime the individual opts for, with the highest slab being 30%. Where the income for financial year 2024–25 exceeds INR5 million, there is a surcharge levied on the base tax rate that ranges from 10% to 25% in new tax regime and 10% to 37% in old tax regime, depending on the income slab. Additionally, a cess of 4% is applicable on income tax toward the Health and Education Cess.

Country/territories	IHT/gift tax	Rate range	Comments
Ireland	Yes	33%	In Ireland, both inheritances and gifts are liable to capital acquisitions tax (CAT). There is no estate tax in Ireland. An inheritance/gift falls within the charge to CAT if either the disponer or the beneficiary is an Irish tax resident or ordinarily resident, or the property comprised within the benefit is situated in Ireland. Special territorial rules apply to non-Irish-domiciled individuals. The taxable value of the inheritance/gift is subject to CAT at 33%. There are tax-free thresholds that can reduce the taxable value of the inheritance/gift. The beneficiary is the accountable person who must pay the CAT liability and file a CAT return. The first EUR3,000 of the total taxable value of all taxable gifts taken by a beneficiary from the same disponer in any year is exempt from CAT.
Italy	Yes	4%–8%	Both inheritance and gift taxes apply to the worldwide estate when the deceased (donor) is resident in Italy at the time of death (donation). Taxation will apply to only Italian assets if the deceased was not resident in Italy. The tax is levied on the net share of the inheritance or donation passing to the beneficiary, taking into consideration nontaxable threshold amounts that depend on the relationship between the transferor and the recipient. The 2017 budget law introduced a special "new resident" regime for income produced abroad by new non-domiciled residents. For individuals who qualify for this regime, only assets located in Italy are subject to inheritance and gift taxes.
Luxembourg	Yes	0%–48%	Inheritance taxes are levied on the whole estate left by an inhabitant of the Grand Duchy of Luxembourg at the time of death, except real estate located abroad and movable goods located abroad that are taxed by reference to the citizenship of the deceased. Inheritance taxes are due in Luxembourg wherever the heirs are resident. Tax is levied on gifts made during the individual's lifetime (inter vivos gifts).
Malta	N/A	N/A	Currently, Maltese legislation does not contemplate any gift taxes or specific estate and inheritance taxes per se. Nevertheless, income tax on capital gains is levied on certain donations, and duty on documents and transfers is due upon the inheritance of certain assets, including real estate, marketable securities and interests in a partnership. The tax rates differ on whether it is income tax or property transfer tax, which are calculated differently. The duty on documents and transfers in general amounts to 5% on the transfer value of immovable property in Malta or any real right over an immovable property, and a 2% duty is applied on the transfer value of the marketable securities and the interest in the partnership being transferred. Naturally, certain exemptions and reliefs are provided for in specific cases.

Country/territories	IHT/gift tax	Rate range	Comments
Monaco	Yes	0%–16%	Inheritance and gift taxes apply only to assets located in Monaco or with a situs in Monaco, regardless of the domicile, residence or nationality of the deceased person or donor (subject to the provisions of the tax treaty between France and Monaco of 1 April 1950). The tax rates depend on the nature of the relationship between the deceased person or donor and his or her heir or donee.
Netherlands	Yes	10%–40%	Inheritance tax is levied on all assets (located worldwide) of a decedent who was a (deemed) resident of the Netherlands at the time of death. Gift tax is due on the value of all gifts made by a person who was a (deemed) resident in the Netherlands at the time of the gift. When determining whether the decedent or donor was a resident of the Netherlands at the time of death or gift, all facts and circumstances are considered. The tax rates depend on the nature of the relationship between the deceased person or donor and his or her heir or donee (max. 40%; max. 20% for children). The most important discount relates to qualifying business assets (75% of value is exempt).
Norway	N/A	N/A	As of 1 January 2014, the Norwegian inheritance and gift tax was replaced with rules of continuity for tax purposes, meaning that the heir or beneficiary assumes the testator's or benefactor's tax values and tax positions.
Poland	Yes	3%–20%	Inheritance and gift tax is levied on the acquisition of goods located in Poland and property rights executed in Poland via donation or inheritance. Tax is also levied when goods are located outside Poland and property rights are executed outside Poland when the decedent dies, or the gift agreement concludes that the beneficiary has Polish nationality or has a place of residence in Poland.
Portugal	N/A	N/A	Inheritance and gift tax was revoked as of 1 January 2004, and inheritance and gifts became subject to stamp tax (ST). The ST Code was adjusted to accommodate the rules previously applicable under the inheritance and gift tax, but also to introduce several changes to the taxation of gratuitous transfers (including inheritance and gifts). Gratuitous transfers in favor of taxpayers subject to corporate income tax also became excluded from ST; only individuals are subject to ST. ST on inheritance and gifts is levied at a fixed rate of 10%. An additional 0.8% applies to gifts of real estate (immovable property).
Slovenia	Yes	0%–39%	Property that a natural or legal person receives from a natural or legal person as an inheritance or gift is subject to taxation. Tax rates differ in relation to the order of inheritance.

Country/territories	IHT/gift tax	Rate range	Comments
South Africa	Yes	**Donations tax:** 20%–25% **Estate duty:** 20%–25%	**Donations tax:** This is a tax payable on the value of any property directly or indirectly donated by a South African resident. Nonresidents are not liable for donations tax. The tax is levied at a rate of 20% on the aggregate value of the property donated up to ZAR30 million and 25% on the ag-gregate value of the property donated exceeding ZAR30 million. Specific exemptions are provided for in specific cases. The donor is responsible for paying the donations tax, but donations tax may be recovered from the donee in certain instances. **Estate duty:** This is a tax levied on the estate of a de-ceased person. Estate duty is payable at 20% on the first ZAR30 million of the dutiable estate and 25% on the duti-able amount exceeding ZAR30 million. Estate duty is payable only if the net value of the estate exceeds ZAR3.5 million. There are specific exclusions and exemp-tions available. Estate duty is the liability of the deceased estate, not that of the deceased person.
Spain	Yes	0%–34%	Inheritance and gift tax is levied on the acquisition by individuals of assets (whether tangible or intangible) by virtue of inheritance, donation or life insurance policies where the payer of the premium and the beneficiary are different persons (subject to certain exceptions). Tax rates will depend on whether estate rules or regional rules apply to the inheritance/donation. Regional rules provide lower tax rates and also apply to EU and non-EU taxpayers.
Sweden	N/A	N/A	The Swedish unified inheritance and gift tax legislation was abolished in 2004. Hence, gifts transferred after 31 December 2004 and acquisitions of property in relation to deaths occurring after 17 December 2004 are not subject to inheritance/gift tax. Capital gains on the sale of property, such as real estate, securities, artwork and other personal property, are taxable in Sweden. The capital gain is calculated as the difference between the proceeds received and the acquisition value of the property. When acquiring property through gift or inheritance, it is necessary to establish the acquisition value for the donor/donee. In order for a gift to be completed, it is necessary to have it registered in some circumstances, and although gift tax was abolished from 1 January 2005, this can have certain other tax consequences.
Switzerland	Yes	0%–50%	IHT and gift taxes are levied at the cantonal/communal level and are not harmonized. Tax liability is connected to the residence in Switzerland of the donor/deceased. Furthermore, the tax rate generally depends on the relationship between transferor and recipient. Transfers to spouse and children are exempt in most cantons.

Country/territories	IHT/gift tax	Rate range	Comments
Türkiye	Yes	1%–30%	The transfer of goods that belong to Turkish citizens and the transfer of goods in Türkiye from one person to another person by inheritance or gratuitously in another way are subject to inheritance and gift tax. Inheritance and gift tax is also applicable for the goods that Turkish citizens acquire abroad in the same ways. Items acquired as gifts or through inheritance are subject to a progressive tax rate ranging from 10% to 30% and 1% to 10%, respectively, of the item's appraised value. A new luxury house tax is introduced. Properties valued above TRY12,880,000 will be subject to tax at a progressive tax rate ranging from 0.3% to 1% of the item's appraised value.
Ukraine	N/A	N/A	Ukraine has no specific inheritance or gift taxes. Under Ukrainian law, a transfer of property — either inherited or received as a gift — is subject to personal income tax (PIT). The general PIT rate is 18%, but special rates apply to income received in the form of a gift or inheritance. The rates (0%, 5% and 18%) depend on the degree of kindred, as well as the tax residency status of the testator and legatee.
United Kingdom	Yes	0%–40%	The UK has a unified estate and gift tax called an "inheritance tax" (IHT). IHT applies to the value of an individual's estate when he or she dies (in which case he or she is deemed to make a transfer of the whole estate immediately before such time) and to certain transfers or gifts made during the individual's lifetime. The tax applies on the basis of the loss to the donor's estate that arises by reason of the transfer of value. There are three types of transfers for IHT purposes: exempt, potentially exempt and chargeable. It is important to note when an individual is non-UK domiciled and not UK-deemed domiciled, since special rules apply. Significant changes were introduced to the taxation of non-UK domiciled individuals from 6 April 2017, including the concept of "deemed domiciled" for those who have been UK resident in at least 15 of the prior 20 tax years. Further substantial changes were made to the taxation of non-UK resident trusts from 6 April 2018.

Foreign currencies

The following list sets forth the names and codes for the currencies of jurisdictions discussed in this book.

Jurisdiction	Currency	Code
Australia	Dollar	AUD
Austria	Euro	EUR
Belgium	Euro	EUR
Brazil	Real	BRL
Bulgaria	Lev	BGN
Canada	Dollar	CAD
Chile	Chilean peso	CLP
China Mainland	Renminbi Yuan	RMB/CNY
Cyprus	Euro	EUR
Czech Republic	Koruna	CZK
Denmark	Krone	DKK
Finland	Euro	EUR
France	Euro	EUR
Germany	Euro	EUR
Gibraltar	Pound	GIP
Greece	Euro	EUR
India	Rupee	INR
Indonesia	Rupiah	IDR
Ireland	Euro	EUR
Italy	Euro	EUR
Japan	Yen	JPY
Luxembourg	Euro	EUR

Jurisdiction	Currency	Code
Malta	Euro	EUR
Mexico	Peso	MXN
Monaco	Euro	EUR
Netherlands	Euro	EUR
New Zealand	Dollar	NZD
Norway	Krone	NOK
Peru	Sol	PEN
Philippines	Peso	PHP
Poland	Zloty	PLN
Portugal	Euro	EUR
Singapore	Dollar	SGD
Slovenia	Euro	EUR
South Africa	Rand	ZAR
South Korea	Won	KRW
Spain	Euro	EUR
Sweden	Krona	SEK
Switzerland	Franc	CHF
Thailand	Baht	THB
Türkiye	Lira	TRY
Ukraine	Hryvnia	UAH
United Kingdom	Pound sterling	GBP
United States	Dollar	USD

Contacts

Private Client Services EY Area contacts

EY Area contacts

Global

Steven Shultz
United States
steven.shultz@ey.com
+1 408 947 6851

Asia-Pacific

Desmond Teo
Singapore
desmond.teo@sg.ey.com
+65 6309 6111

Americas

Jim Givens
United States
james.givens@ey.com
+1 703 747 0603

EMEIA

Chris Vandermeersche
Belgium
chris.vandermeersche@be.ey.com
+32 495 429 532

Individual jurisdiction contacts

Jurisdiction contacts

Australia

Craig Whiteman
craig.whiteman@au.ey.com
+61 8 8417 1770

Tracey Dunn
tracey.dunn@au.ey.com
+61 8 9217 1192

Austria

Johannes Volpini
johannes.volpini@at.ey.com
+43 662 2055 5242

Markus Schragl
markus.schragl@at.ey.com
+43 1 211 70 1268

Stefan Kulischek
stefan.kulischek@at.ey.com
+43 1 21170 1305

Belgium

Emilie Maes
emilie.maes@be.ey.com
+32 478 965 903

Kim Verhaeghe
kim.verhaeghe@be.ey.com
+32 474 06 34 55

Alicia Coveliers
alicia.coveliers@be.ey.com
+32 475 22 83 55

Jo Wolters
jo.wolters@be.ey.com
+32 499 22 25 12

Brazil

Jose Massari
jose.massari@br.ey.com
+55 11 2573 6460

Silvia Kozlowski
silvia.kozlowski@br.ey.com
+55 11 25736323

Bulgaria

Milen Raikov
milen.raikov@bg.ey.com
+359 2 817 7155

Nevena Kovacheva
nevena.kovacheva@bg.ey.com
+359 2 81 77 146

Canada

Teresa Gombita
teresa.gombita@ca.ey.com
+1 416 943 3272

Wesley Isaacs
wesley.isaacs@ca.ey.com
+1 416 932 6003

Chile

Pablo Greiber
pablo.greiber@cl.ey.com
+56 2 2676 1372

China Mainland

Karina Wong
karina.wong@hk.ey.com
+852 28499175

Andrew Chen
andrew-jp.chen@cn.ey.com
+86 21 2228 2116

Robin Xiao
robin.xiao@cn.ey.com
+86 10 5815 3630

Ivy Sun
ivy.sun@cn.ey.com
+86 20 2881 2857

Cyprus

Petros Liassides
petros.liassides@cy.ey.com
+357 2220 9797

Czech Republic

Ondřej Polívka
ondrej.polivka@cz.ey.com
+420 225 335 595

Jana Wintrová
jana.wintrova@cz.ey.com
+420 225 335 248

Denmark

Nete B. Tinning
nete.b.tinning@dk.ey.com
+45 5388 7735

Lone Kristiansen
lone.kristiansen@dk.ey.com
+45 2529 4632

Majbritt Davidsen
majbritt.davidsen@dk.ey.com
+45 2529 6410

Finland

Hanna-Leena Rissanen
hanna-leena.rissanen@fi.ey.com
+358 45 260 5946

Mika Kankare
mika.kankare@fi.ey.com
+358 40 550 1072

France

Amandine Allix Cieutat
amandine.allix.cieutat@
ey-avocats.com
+33 1 55 61 33 84

Juliette Garcin
juliette.garcin@ey-avocats.com
+33 1 55 61 15 84

Florentin Leroux
florentin.leroux@ey-avocats.com
+33 1 55 61 15 88

Germany

Dr. Christian Philipp Steger
Head of PCS, Germany
christian.steger@de.ey.com
+49 711 9881 11988

Dr. Patriz Ergenzinger
patriz.ergenzinger@de.ey.com
+49 711 9881 18199

Stefanie Guerra
stefanie.guerra@de.ey.com
+49 711 9881 15914

Dr. Dominik Müller
dominik.k.mueller@de.ey.com
+49 221 2779 16915

Daniel Schüttpelz
daniel.schuettpelz@de.ey.com
+49 6196 996 11997

Dr. Sven Wanka
sven.wanka@de.ey.com
+49 6196 996 11108

Lucia Helena Bambynek
lucia.h.bambynek@de.ey.com
+49 421 33574 15358

Amadeus Amberg
amadeus.amberg@de.ey.com
+49 40 36132 17587

Lara Veronique Piechulla
lara.v.piechulla@de.ey.com
+49 7131 9391 29223

Korbinian Wintermeier
korbinian.wintermeier@de.ey.com
+49 89 14331 28446

Gibraltar

Neil Rumford
neil.rumford@gi.ey.com
+350 200 13 200

Greece

Stefanos Mitsios
stefanos.mitsios@gr.ey.com
+30 21 0288 6363

Konstantina Galli
konstantina.galli@gr.ey.com
+30 21 0288 6355

Manos Tountas
manos.n.tountas@gr.ey.com
+30 21 0288 6387

India

Pranav Sayta
pranav.sayta@in.ey.com
+91 22 6192 0870

Ajay Agashe
ajay.agashe@in.ey.com
+91 22 6192 3874

Pavitra Shetty
pavitra.shetty@in.ey.com
+91 98 8613 9347

Indonesia

Bambang Suprijanto
bambang.suprijanto@id.ey.com
+62 31 535 0409

Kartina Indriyani
kartina.indriyani@id.ey.com
+62 21 5289 5240

Ireland

Alison McHugh
alison.mchugh@ie.ey.com
+ 353 1 221 2180

Margaret Coleman
margaret.coleman@ie.ey.com
+353 1 221 2587

James Henry
james.henry1@ie.ey.com
+353 1 425 1705

Frank O'Neill
frank.oneill@ie.ey.com
+353 21 480 5718

Italy

Paolo Santarelli
paolo.santarelli@it.ey.com
+39 02 851 44271

Claudio Quartana
claudio.quartana@it.ey.com
+39 02 851 43563

Japan

Kenji Ueda
kenji.ueda@jp.ey.com
+81 70 3876 5003

Michiko Nishimura
michiko.nishimura@jp.ey.com
+81 70 3853 3586

Luxembourg

Bart Van Droogenbroek
bart.van.droogenbroek@lu.ey.com
+352 42 124 7456

Christophe Joosen
christophe.joosen@lu.ey.com
+352 42 124 72242

Malta

Robert Attard
robert.attard@mt.ey.com
+356 2134 2134

Mexico

María Guadalupe Ávila
maria.avila@mx.ey.com
+52 55 5283 1300, ext. 73261101 7326

Rodrigo Lechuga
rodrigo.lechuga@mx.ey.com
+52 55 5283 1300, ext. 7448

Alejandro Banderas
alejandro.banderas@mx.ey.com
+52 442 216 6429, ext. +267981 8152 1806

Abril Rodríguez Esparza
abril.rodriguez@mx.ey.com
+52 55 5283 1300, ext. 7108

Monaco

Geraldine Garcin-Peiffert
geraldine.garcin-peiffert@ey-avocats.com
+33 6 74 89 05 13

Lionel Benant
lionel.benant@ey-avocats.com
+33 6 80 11 58 44

Netherlands

Willem Jan Vermeer
willem.jan.vermeer@nl.ey.com
+31 6 2908 3434

Roxana Bos-Schepers
roxana.bos@nl.ey.com
+31 6 2908 3317

Marieke Kopinsky
marieke.kopinsky@nl.ey.com
+31 6 2908 3460

Jonathan van Oostenbrugge
jonathan.van.oostenbrugge@nl.ey.com
+31 6 5544 2552

New Zealand

Jason Macgregor
jason.macregor@nz.ey.com
+64 2748 99504

Aaron Quintal
aaron.quintal@nz.ey.com
+64 2748 99029

Andrea Lai
andrea.lai@nz.ey.com
+64 2122 95368

Norway

Egil Jakobsen
egil.jakobsen@no.ey.com
+47 9228 8885

Karoline Sture Sørensen
karoline.sorensen@no.ey.com
+47 4526 0184

Peru

Roberto Cores
roberto.cores@pe.ey.com
+51 1 411 4468

Nora Orihuela
nora.orihuela@pe.ey.com
+51 1 411 4444

Philippines

Jules E. Riego
jules.e.riego@ph.ey.com
+63 2 894 8117

Poland

Marek Jarocki
marek.jarocki@pl.ey.com
+48 22 557 7943

Portugal

Pedro Paiva
pedro.paiva@pt.ey.com
+351 936 615 043

Filipa Bastos
filipa.bastos@pt.ey.com
+351 937 010 617

Singapore

Desmond Teo
desmond.teo@sg.ey.com
+65 6309 6111

Cedric Tan
cedric.tan@sg.ey.com
+65 6309 8316

Spencer Hsu
spencer.hsu@sg.ey.com
+65 6239 4304

Slovenia

Mojca Lukač
mojca.lukac@si.ey.com
Office: +386 1 583 17 31
Cell: +386 41 332 396

South Africa

Emile du Toit
emile.dutoit@za.ey.com
+27 (11) 772-3000

South Korea

Narae Lee
na-rae.lee@kr.ey.com
+82 3770 0928

Spain

Antoni Murt Prats
antoni.murtprats@es.ey.com
+34 630 010 585

Switzerland

Jean-Marie Hainaut
jean-marie.hainaut@ch.ey.com
+41 58 286 5851

Thomas Fisler
thomas.fisler@ch.ey.com
+41 58 286 3315

Roger Krapf
roger.krapf@ch.ey.com
+41 58 286 2125

Markus Koch
markus.koch@ch.ey.com
+41 58 286 2092

Frédéric Bonny
frederic.bonny@ch.ey.com
+41 58 286 6202

Thailand

Kasem Kiatsayrikul
kasem.kiatsayrikul@th.ey.com
+66 2 264 9090, ext. 77033

Praew Mahadumrongkul
praew.mahadumrongkul@
th.ey.com
+662 264 9090, ext. 21005

Türkiye

Emre Celebiler
emre.celebiler@tr.ey.com
+90 212 408 5762

Ukraine

Olga Gorbanovskaya
olga.gorbanovskaya@ua.ey.com
+380 44 490 3022

Halyna Khomenko
halyna.khomenko@ua.ey.com
+380 44 490 3028

United Kingdom

Caspar Noble
cnoble@uk.ey.com
+44 20 795 11620

Dan Thompson
dthompson2@uk.ey.com
+44 20 7951 0144

Neil Morgan
nmorgan1@uk.ey.com
+44 20 7951 1878

Sonia Rai
srai1@uk.ey.com
+44 20 7951 6384

Sarah Farrow
sarah.farrow@uk.ey.com
+44 20 7520 8404

Jo Hurley
jo.hurley@uk.ey.com
+44 20 7951 5279

Justin G. Cobb
justin.cobb@uk.ey.com
+44 20 7550 0506

Martin Portnoy
mportnoy@uk.ey.com
+44 161 333 3275

Rob Luty
rob.luty@uk.ey.com
+44 16 1234 6402

Liz Smith
lizsmith@uk.ey.com
+44 161 234 6434

Paul Cooper
pcooper3@uk.ey.com
+44 117 981 2513

Mark Lee
mlee5@uk.ey.com
+44 19 1269 4964

Chris Romans
chris.romans1@uk.ey.com
+44 12 1262 4600

Peter Ames
pames@uk.ey.com
+44 131 777 2262

Duncan Reoch
duncan.reoch@uk.ey.com
+44 12 2465 3045

United States

Marianne Kayan
marianne.kayan@ey.com
+1 202 327 6071

John Fusco
john.fusco@ey.com
+1 202 327 7754

EY | Building a better working world

EY is building a better working world by creating new value for clients, people, society and the planet, while building trust in capital markets.

Enabled by data, AI and advanced technology, EY teams help clients shape the future with confidence and develop answers for the most pressing issues of today and tomorrow.

EY teams work across a full spectrum of services in assurance, consulting, tax, strategy and transactions. Fueled by sector insights, a globally connected, multidisciplinary network and diverse ecosystem partners, EY teams can provide services in more than 150 countries and territories.

All in to shape the future with confidence.

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. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

About EY's Tax Services

Your business will only succeed if 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 50,000 talented tax professionals, in more than 150 countries, give you technical knowledge, business experience, consistency and an unwavering commitment to quality service – wherever you are and whatever tax services you need.

© 2025 EYGM Limited.
All Rights Reserved.

EYG no. 007110-25Gbl

CRS_CP_15598687

ED None

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

ey.com

Access Global Tax Guides

Read the *Worldwide Capital and Fixed Assets Guide* on the EY website or on your tablet, where it is accompanied by timely, country-specific Global Tax Alerts. You will also find the *Worldwide Corporate Tax Guide; Worldwide VAT, GST and Sales Tax Guide;* and *Worldwide Personal Tax Guide*, as well as more-specific guides on transfer pricing, estate and inheritance taxes, research and development incentives, oil and gas taxes, and cloud computing taxes.

Global Tax Guides at your fingertips

ey.com/GlobalTaxGuides