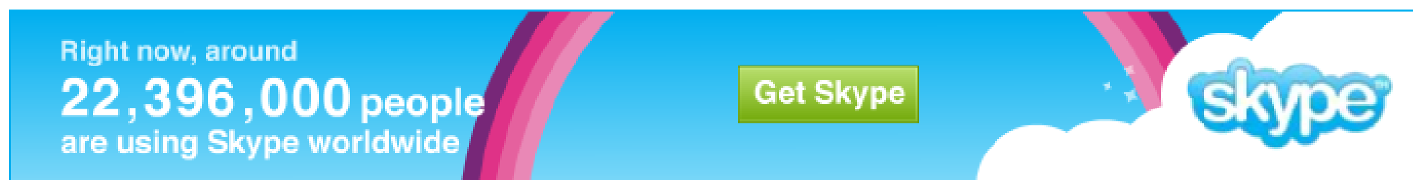

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THE WALL STREET JOURNAL.
WSJ.com

APRIL 12, 2010

No Escaping the Taxman

There is no common market for inheritance tax. Every European country has its own complicated rules.

By CHRIS OWEN

There is never a convenient time for death, taxes and childbirth, to paraphrase Scarlett O'Hara in Gone with the Wind. Except, that is, for the taxman as all three come neatly together under the heading "inheritance."

As the average European becomes richer, an increasing number of people are affected by inheritance and gift taxes and those who do not want a considerable part of their savings to be left to the state on their death are beginning to consider the impact of such legislation.

Where you live and die in Europe makes a huge difference. And the increasing number of people who are domiciled in a variety of countries during their life need to be aware of the variations in the complicated rules.

Austria, Cyprus, Estonia, Russia and Sweden have neither gift tax nor inheritance tax, while Malta and Romania have only inheritance tax. Regulations also vary: some countries tax the estate of the deceased, while others tax the individual beneficiary.

And to complicate matters further, some countries, notably France, have "forced heirship" rules that dictate who can benefit from the deceased's estate and what proportion of it they can inherit. Most other countries allow relative freedom to choose the beneficiaries and careful planning may alter the overall tax burden.

However, inheritance tax is not the only tax to be considered—capital gains, income and property-transfer taxes may be equally important.

The assets transferred to the deceased's spouse are exempt from inheritance tax in most countries. However, Belgium, Germany, Greece, Italy, Liechtenstein, the Netherlands, Poland and Romania don't offer this. Exemption for assets transferred to children is less common. This only applies in Bulgaria, Croatia, Czech Republic, Finland, Hungary, Luxembourg, Malta, Norway, Portugal, Russia, Slovenia, Spain, Sweden and Ukraine.

In the majority of European countries the tax rate is based on the total value of the assets, but it often varies according to the type of asset. The family home is generally valued using current market value but some countries apply reduced values—France (80%), Liechtenstein (50%), Malta (50%), Portugal (90%), Slovenia (80%), Spain (58%) and Sweden (75%).

Cash is usually included in the estate at 100% of its value when calculating inheritance tax. But for

share portfolios a distinction is drawn between shares in companies listed on a recognized stock exchange and shareholdings in unquoted or family businesses. The proportion of the shareholding can also be important with exemptions available if the estate owns more than a certain percentage of the total share capital in a company. This means that giving away a small number of shares prior to death could result in an exemption being lost.

AGN International, a world-wide association of independent accounting and consulting firms, conducts an annual survey of European gift and inheritance taxes. It is based on a married individual who dies without a will, leaving a spouse and two children and a total estate valued at €2.6 million ($3.5 million).

The results for 2010 show substantial differences. In Belgium there is effectively a tax rate of 21.9% and in the Netherlands it is 15.2%. But there is effectively zero tax in a group of countries including Bulgaria, Croatia, Czech Republic, Ireland, Italy, Luxembourg, Portugal, Slovenia, Switzerland and Ukraine.

"This survey provides a useful overview across Europe for a fixed set of circumstances, but it cannot show all the nuances for mitigating inheritance tax," says Mike Luckett, a tax principal at Shipleys, the London-based accountants and professional business advisers, which is an AGN member.

"What the survey does show is that people, wherever they live, should investigate what opportunities are available to them," he says. "It may well be that they are unwilling to undertake the recommended actions, whether it be gifting assets, moving abroad, and so on. But at least they will be in a position to make an informed decision."

What emerges from all this—other than the need to make a will and make tax arrangements well in advance—is how hard it is to plan for people who are mobile. What works to mitigate inheritance tax in one country may have the opposite effect on your liability in another.

Last October, the European Commission adopted a proposal to introduce new regulation on succession and wills to simplify the legal process in cross-border succession cases. It said the 450,000 international successions in the European Union every year are estimated to be worth more than €120 billion.

The proposed regulation is intended to help people choose one national succession law that will cover assets spread across several countries. But it will not change the tax arrangements for assets making up a succession, which remain a matter of national law. The need for careful inheritance-tax planning is likely to remain the only certainty.

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