



Brussels, D(2011) 11 MARS 2011

Opinion

Title

Impact assessment on an Initiative on cross border inheritance taxes - Guidelines for designing non-discriminatory inheritance tax systems and a Commission Recommendation regarding national unilateral provisions to relieve double taxation of inheritances

(draft of 11 February 2011)

(A) Context

As EU citizens increasingly move within the Internal Market to find work, set up businesses, marry or retire or are purchasing property and investing in assets abroad, the application of inheritance taxation to bequests made across borders becomes an increasingly contentious issue. There are strong indications of an increase in problems with inheritance tax (increased number of ECJ cases, numerous complaints and queries in this area received by the Commission). This IA report examines problems in the application of inheritance taxes in cross-border situations and explores ways in which they can be resolved.

(B) Overall assessment

The report gives a clear overview of the present fiscal arrangements in Member States and the different ways in which this affects the beneficiaries of inheritances in cross-border situations. It nevertheless should be improved in various respects. Firstly, the report should better present the scope and the scale of the problem, for instance by adjusting the balance between the macro- and micro-economic aspects. Secondly, it should better explain the impact of the options in individual cases, using the illustrative examples described in the report. Finally, the report should clarify why effects on the tax revenues of individual Member States are difficult to determine.

(C) Main recommendations for improvement

(1) Better describe the scope and scale of the problem. The report should improve the presentation of the scope and the scale of the problem by adjusting the balance between the macroeconomic aspect of the problem on one side, and the impact on the individual citizen on the other. This can be achieved by elaborating examples that show how, in individual cases, discriminatory or double taxation can have considerable effects. At the same time the report should describe the macroeconomic problem more concisely. It

should elaborate further on how the functioning of the internal market might be affected, especially for SMEs. This could be done for instance by the inclusion of an example addressing more explicitly the small business context.

(2) Better explain the impact of the options for individual cases. The report should assess the possible impact of the different options in terms of the change in tax burden for the individuals featured in the examples by providing more concrete indications of the impact of discriminatory and double taxation. It should explain more clearly that one of the benefits of the initiative may be a reduction of administrative burdens for citizens, such as legal costs and the time and inconvenience involved in making complaints.

(3) Explain why effects on Member States' tax revenues are difficult to determine. The report should explain more clearly why an assessment of the tax revenues that Member States would forego under the different options is not possible at this stage. In particular, it should clarify that there are currently no figures available for numbers of cross-border inheritances in all Member States so it is not possible to establish the revenues with complete certainty. The report should – to the extent feasible - highlight the Member States who could be more affected than others by changes in the current regime. It should also consider proposing better monitoring of cross-border inheritance tax cases in the section on monitoring and evaluation.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report is clearly written and accessible for the non-expert reader. The report should better reflect different stakeholder views in the main text and should add an annex describing the feedback received in the public consultations.

(E) IAB scrutiny process

Reference number	2008/TAXUD/010 (CWP 2011 strategic/SRP 2008 recast)
External expertise used	No
Date of IAB meeting	Written procedure