IX. SUMMARY OF OTHER COUNTRIES' TAXATION OF CITIZENSHIP RELIQUISHMENT, RESIDENCY TERMINATION, AND IMMIGRATION, AND ESTATES, INHERITANCES, AND GIFTS

A. Summary of Other Countries' Taxation of Citizenship Relinquishment, Residency Termination, and Immigration

Overview

The Joint Committee staff surveyed other countries' taxation of citizens and residents.[466] While not an exhaustive survey, this survey reveals that most nations generally tax the worldwide income of their residents, whether citizens or noncitizens, but only the domestic source income of their nonresidents, whether citizens or noncitizens. Hence, unlike in the United States, the criterion of residence rather than citizenship is central to the liability to tax in most countries.

In general, it appears that a limited number of countries attempt to tax former residents and that a smaller group impose a tax on expatriation (an exit tax). Several European countries impose income tax on their former citizens or residents for some period of time after they become nonresidents. In some cases, the country in which the former resident chooses to claim residency determines whether the individual retains an income tax liability in his or her former country of residence. Australia, Canada, and Denmark impose an exit tax when a resident permanently leaves the country. The Danish departure tax generally is less expansive than those of Australia or Canada. Also, it is generally the case that among those countries that tax capital gains, the gain is taxed upon realization by a resident taxpayer, regardless of whether some part of that gain may have accrued to the individual prior to his or her immigration to such country. Australia, Canada, Denmark, and Israel are exceptions to this general rule.

The relevant provisions relating to taxation of former residents, exit taxes, and the taxation of immigrants' accrued gains are described below.[467]

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[466] The Joint Committee staff conducted this survey with the assistance of the staff of the Law Librarian of the Library of Congress. The Joint Committee staff also consulted primary sources, secondary sources, and outside practitioners. The results reported should not be interpreted as an authoritative representation of foreign laws, but rather as an overview of foreign tax statutes.

[467] Except where noted, all foreign currency conversions into U.S. dollars were made at the exchange rate prevailing on September 30, 2002, as reported by the International Monetary Fund in International Monetary Fund, *International Financial Statistics*, November, 2002.

Taxation of former residents

Finland

Generally a person who has his permanent residence in Finland is subject to taxation on his worldwide income and wealth.[468] For three years subsequent to departing Finland, a Finnish citizen is liable for Finnish income and wealth taxes on his worldwide income and wealth unless he can establish that no "essential ties" with Finland are maintained. The three-year "essential ties" rule is interpreted by the individual's facts and circumstances. Among circumstances that create essential ties are the individual's family residing in Finland; the individual carries on business activities in Finland; the individual owns real estate in Finland; and the individual is not permanently staying abroad perhaps for reasons of pursuing studies or a limited employment assignment. After three years, the individual is taxed as a nonresident unless the tax authorities can establish otherwise. The three-year rule does not apply for the purpose of inheritance taxation.

In practice bilateral tax treaties for the mitigation of double taxation of the individual often may override the three-year rule.[469] Even if a tax treaty overrides the three-year rule, the Finnish citizen still is required to file an annual tax return.

France

As provided by the France-Monaco income tax treaty, France can tax as a French resident any French citizen who resides in Monaco regardless of whether they resided in France or in another country prior to establishing residence in Monaco.[470] Cooperation between the tax authorities of France and Monaco provides enforcement of this arrangement. Treaty arrangements between France and Monaco regarding inheritance taxes are not as stringent as those governing income taxes. Non-French sited property of a French citizen residing in Monaco is exempt from French inheritance taxation if the individual had resided in Monaco for more than five years prior to death.

Aside from the unique agreements with Monaco, emigration from France generally creates no French tax liability under either the income or inheritance taxes, except in two circumstances. First, French citizens and other nonresidents are liable for income tax on French-source income. A distinction is made depending on whether or not the nonresident has one or more dwellings at his or her permanent disposal in France. If the nonresident does not have a

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[468] Finland is one of a number of European countries that imposes an annual net wealth tax.

[469] Finland's treaty with the United States eliminates the three-year rule to preclude double taxation.

[470] An exception to this rule arises in the case of an individual holding dual citizenship. If such an individual moved to Monaco from a country other than France he may claim the nationality of the other country to avoid taxation as a French citizen.

dwelling, he or she will be taxed exclusively on the basis of his or her French-source income. If the nonresident has one or more dwellings at his or her permanent disposal, whether held directly or indirectly, and the nonresident resides in a tax haven or nontreaty country, he or she is subject to tax based on a deemed income equal to three times the fair market rent of the dwellings. However, if his or her French-source income exceeds this deemed income, tax is assessed based on actual income.[471] In practice, such tax is infrequently collected.

Second, for certain French residents who emigrate from France on or after September 9, 1998, France imposes a tax on the net accrued, but unrealized, capital gains on the shares of companies[472] in which the émigré and his family hold more than 25 percent of the vote or value. To be subject to this tax, the individual must have been resident in France for at least six of the preceding 10 years. The taxpayer need not pay the liability immediately. Deferral is permitted if the taxpayer provides the name of a representative in France who is authorized to receive any correspondence from the tax administration on the taxpayer's behalf. The representative must agree to fulfill all obligations and the taxpayer must provide acceptable guarantees to the tax administration to secure payment of the deferred liability. In addition, the taxpayer must file an income tax return annually during the deferral period on which the taxpayer reports the deferred tax. The deferral period ends if, within five years from the date of departure from France, the taxpayer transfers, sells, or redeems the shares. Credit may be made for taxes paid to a foreign country on this subsequent transfer, sale, or redemption. The taxpayer is exempt from the deferred tax liability if the taxpayer reestablishes residence in France or if the taxpayer holds the shares for five years measured from the date of departure from France.[473]

Germany

Germany imposes a so-called "extended limited tax liability" on German citizens who emigrate to a tax-haven country[474] or do not assume residence in any country and who maintain substantial economic ties with Germany as measured in terms of the individual's German-source income or assets. The regime applies to both the German income tax and inheritance tax. This tax applies to an individual who was both a German citizen and a tax resident of Germany for at least five years during the 10-year period immediately prior to the cessation of his or her residence. The individual need not be a German citizen at the time of emigration. A qualifying individual is subject to the extended limited tax liability for 10 years after termination of

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[471] Former French citizens are exempt from this tax for their first two years of residence in a tax haven or nontreaty country.

[472] The provision applies to the ownership of any company, French or foreign, that was subject to French corporate income tax.

[473] The taxpayer is entitled to reimbursement of the costs associated with the establishment of the guarantees required to obtain deferral.

[474] For this purpose, a country is a tax haven if it does not impose an income tax or if the income tax liability that would arise for a single person with an income of €77,000 ($75,922) is less than two thirds of the corresponding German income tax liability.

residency, except that no such tax is due in years when the individual has German-source income of no more than €16,500 ($16,269).

Under extended limited tax liability, the individual is taxed on all income that does not qualify as foreign income in the hands of a resident. This includes German-source income that creates a tax liability for nonresidents in general, as well as German-source income for which other non-residents are not liable to taxation, as well as income that is not German-source income yet is not deemed to be foreign-source income. Examples of such income are interest income from deposits held in German banks or income from international consulting not attributable to a particular country, and passive income from foreign controlled companies. In the case of relocation to countries with which Germany maintains tax treaties, the tax treaties generally take precedence over the extended limited tax liability, with the effect that any issues of double taxation are dealt with by treaty. This German tax regime is similar to that imposed by section 877 under U.S. Federal tax law.

To avoid circumvention of the extended tax liability regime, Germany extends to individuals who are subject to the extended limited tax liability the taxation of base company income from foreign controlled corporations that is imposed on German resident shareholders.[475] Income from a foreign controlled corporation is attributed to a German extended limited tax liability taxpayer, if the taxpayer, alone or with other residents, owns more than 50 percent of the voting shares of the controlled corporation, and if, in addition, the controlled corporation resides in a low-tax country and the corporation's income is primarily passive income.

Another tax liability is imposed on emigrating taxpayers who own, or have owned, a certain percentage of shares in a German corporation by treating the taxpayers' change in residence as a deemed sale of the shares. As of January 2002, the disposition of shares in a German corporation qualifies as the disposition of a business asset that leads to income taxation on the realized gain, if the individual disposing of the shares has owned at least one percent of the company's shares at any time during the preceding five years, and these criteria are applied to resident or non-resident taxpayers who actually sell the shares, as well as to emigrating taxpayers who are deemed to have sold the shares when they leave the country. Before January 2002, the threshold value for taxing the capital gains of substantial share ownership was 10 percent of the share capital.

The above described taxation of capital gains realized from the sale of shares is an exception from the general principle that individuals are not taxed on long-term capital gains on shares. The taxation of the realized gains and deemed realized gains described above is based on the principle that holding one percent of the share capital, or more, amount to the ownership of a business asset and in Germany the general principle for business assets is that gains realized on the sale of a business asset are taxable income.

For emigrating taxpayers, the gain from the deemed sale is calculated by determining the fair market value at the time of relinquishing German residence less the taxpayer's basis. If the taxpayer had already owned the corporate holding at the time he or she became a German

[475] This provision is similar to rules under Subpart F of the U.S. Internal Revenue Code.

resident, the taxpayer may use the fair market value of the holding at the time he or she became a resident in lieu of basis. For years after 2000, such deemed gains of emigrating taxpayers are taxed as ordinary income, whereas such realized gains of resident taxpayers are taxed at a preferential rate by exempting one-half of the gain from income.

These tax regimes for former citizens and former residents apparently were enacted in response to the termination of residency by certain wealthy individuals, many of whom were highly visible to the general public as athletic or artistic performers. The Joint Committee staff was unable to find any information regarding the extent of any revenue raised by these provisions. Enforcement of the deemed disposition provision may be difficult with respect to its application to substantial participation in foreign companies. The extended limited tax liability generally only applies to German-source income and, in principle, should be enforceable. Enforcement may be enhanced by the taxation of foreign base company holdings. However, these provisions can be avoided by relocating the taxpayer's property outside Germany.

Ireland

In general, Irish residents, and those ordinarily resident, are liable for tax on their worldwide income, unless the individual is domiciled outside of Ireland. In this circumstance, only income from Irish sources and income remitted to Ireland from sources outside of Ireland and the United Kingdom is subject to tax. An individual is said to be "ordinarily resident" in the current year if the individual was resident in the prior three years. An individual ceasing residence in Ireland will not cease to be ordinarily resident, and thereby subject to Irish income tax, until he or she has been non-resident for three continuous tax years.

Italy

Resident individuals are subject to income tax on their worldwide income. Residents of Italy are those persons, whether citizens or not, who for the majority of the tax year are registered in the Civil Registry or who are domiciled in Italy. Italian citizens who remove themselves from the residents' register and have moved to any one of 57 identified tax havens[476] are deemed residents of Italy, unless proof to the contrary is provided.

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[476] The identified tax haven countries are: Andorra; Anguilla; Antigua and Barbuda; Aruba; the Bahamas; Bahrain; Barbados; Belize; Bermuda; the British Virgin Islands; Brunei; the Cayman Islands; Cyprus; the Cook Islands; Costa Rica; Djibouti; Dominica; Ecuador; French Polynesia; Gibraltar; Grenada; Guernsey; Hong Kong; the Isle of Man; Jersey; Lebanon; Liberia; Liechtenstein; Macao; Malaysia; Malta; the Marshall Islands; Mauritius; Montserrat; Nauru; the Netherlands Antilles; Niue; Oman; Panama; the Philippines; Monaco; San Marino; Sark; the Seychelles; Singapore; St. Kitts and Nevis; St. Lucia; St. Vincent and the Grenadines; Switzerland; Taiwan; Tonga; the Turks and Caicos Islands; Tuvalu; Uruguay; Vanuatu; Samoa; and the United Arab Emirates.

The Netherlands

The Netherlands generally does not tax the capital gains realized by resident or nonresident taxpayers. However, a resident of the Netherlands is subject to tax on the sale of a "substantial interest" in a company, whether the company is a Dutch company or a foreign company. Generally a shareholding qualifies as a substantial interest in a company if the taxpayer, alone or with his or her spouse, holds directly or indirectly at least five percent of the total capital issued, or five percent of a particular class of shares in a resident or nonresident company.[477] A substantial shareholding also exists if a shareholder directly or indirectly owns at least five percent of the voting rights. If a taxpayer or spouse has a lineal ascendant or descendent who owns such an interest, all shares in the same company are deemed to be a substantial interest, but the two shareholdings are not aggregated for purposes of the five percent test.

Because the Netherlands taxes residents, rather than citizens, any tax that would be owed on the sale of a substantial interest in a foreign-sited business may be easily avoided by the owner emigrating, that is, becoming a nonresident and selling the interest in the business. The change in residency does not necessitate a change in citizenship. However, in the case of a business located in the Netherlands, the Netherlands asserts taxation authority on sales of substantial interests by nonresident owners. The ability to enforce such taxation may be precluded by income tax treaties. Substantial shareholders who emigrate are assessed provisionally. The tax is not collected if security for payment is provided to the Dutch tax administration. The tax becomes due if the substantial shareholding is sold within 10 years after emigration or if the company liquidates the enterprise or distributes its reserves. In some cases, the treaty provisions permit the Netherlands to tax former residents only if they are nationals of the Netherlands. Avoidance of these tax arrangements can be accomplished if the owner of a substantial interest is willing to relocate to a country with an income tax treaty that is less favorable to the Netherlands' tax authority. For example, a resident of the Netherlands could move to Belgium and wait five years prior to sale under the current income tax treaty between the two countries.

In addition to the sale of substantial interests, the Netherlands taxes the sale of business assets. The Netherlands has adopted certain provisions to prevent the emigration of a taxpayer to avoid payment of tax on the sale of business assets. A taxpayer who emigrated from the Netherlands and terminates his Netherlands business is subject to tax at the date of emigration. The gain subject to tax is calculated at the fair market value of the business assets and reserves less the adjusted basis of such assets. If the taxpayer were to emigrate, but not sell his business, there would be no tax liability as the business remains subject to Netherlands tax. If a resident or nonresident transfers a Netherlands business abroad, the transfer is subject to tax at the date of the transfer. Gain or loss is calculated as the difference between fair market value of the assets transferred and the taxpayer's adjusted basis.

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[477] Loans to the company also may constitute part of a "substantial holding." A person having a call option on five percent of the nominal issued equity capital also would qualify as a substantial shareholder.

The Netherlands also attempts to tax taxpayers who move pension fund assets out of the Netherlands. In the Netherlands, contributions to pension funds, which are often paid by the employer, generally are exempt from income tax and distributions are taxable. Under a provision effective January 1, 1995, a taxpayer is deemed to have received the fair market value of pension assets at the moment immediately preceding the transfer of such assets outside of the Netherlands. However, the tax does not apply if the pension distributions will be taxed in the foreign jurisdiction in which a former resident lives at the time of distribution. A similar provision applies to certain annuity payments. An émigré may obtain an extension of time to pay the tax on annuities and the taxpayer is not liable if the taxpayer does not redeem the annuity rights within five years of emigration.[478]

A Dutch citizen who emigrates continues to be treated as a resident of the Netherlands for 10 years following emigration for gift and inheritance tax purposes.[479]

Norway

Norway asserts tax liability on the worldwide income of individuals and businesses that reside in Norway. A former resident may still be considered resident for purposes of the income tax if he or she keeps a home in Norway, which is not let out, and he or she is unable to prove that he or she is considered resident for tax purposes in the country in which he or she is living. All remuneration (including pension distributions) derived from employment in Norway or paid to a manager or member of the Board of Directors of a company resident in Norway is liable for Norwegian income taxes regardless of the individual's country of residence.

If a business enterprise becomes nonresident, activity previously liable for income taxation is considered ceased and income tax is assessed as if the business or the assets were sold. If a limited liability company leaves Norway, the company has to be liquidated in Norway with whatever tax consequences may arise from liquidation. Individuals who terminate their residence, whether for tax purposes or not, and who dispose of shares in a Norwegian company or partnership within five years of the year in which residence is terminated are liable to Norway for tax on gains realized from such disposition. This rule also applies to dispositions of options and other equity derivative instruments. This rule does not apply to the disposal of bonds or certain other securities.

For income considered earned in Norway, Norway claims the primary right of taxation and makes no provision for relief from double taxation that might arise by another country. In practice, tax treaties may modify this outcome.

A business paying wages and salaries and distributing pension benefits is responsible for withholding taxes on such income regardless of the individual's country of residence. This ensures some enforcement of the provisions relating to the taxation of compensation paid to

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[478] Upon application and under certain conditions, a transfer of pension rights from the Netherlands to a foreign insurer may not be taxed if an employee is employed abroad.

[479] *See* Part IX.B., below, for a summary of inheritance taxation in the Netherlands.

former residents. A limited liability company, however, is not responsible for taxes derived from the sale of the company's shares. As this particular provision has only been in effect since 1992, there is limited experience regarding how this provision is enforced. As a general matter, Norway has concluded treaties regarding tax enforcement only with the other Nordic countries.[480]

Spain

Spain asserts tax liability on the worldwide income of individuals and businesses that reside in Spain. An individual is deemed to be a resident of Spain for income tax purposes if (1) the individual stays in Spain for more than 183 days (including temporary absences), (2) the individual's main center of business or professional activities or economic interests is in Spain, or (3) the individual's spouse and minor dependent children qualify as residents. In addition, Spanish citizens who remove themselves from Spain and establish residence in a country deemed a tax haven remain taxable on their worldwide income in the year of emigration and the four subsequent years. Spain has identified 48 countries as tax havens for this purpose.[481]

Sweden

A Swedish citizen or resident remains a resident for income tax purposes as long as he or she maintains essential ties with Sweden. If the individual was a resident of Sweden for at least 10 years, he or she is deemed a resident for five years following departure unless the individual can establish that he or she has not maintained essential ties with Sweden. If, after the initial five-year period, the Swedish government can establish that the individual has maintained essential ties with Sweden, or has created new essential ties, the individual will continue to be taxed as a Swedish resident. Through the creation of new essential ties, it is possible for an individual who had become a nonresident for tax purposes to be reinstated as a resident for tax purposes. "Essential ties" to Sweden can include a family present in Sweden, a home available for use in Sweden, and the extent of economic activity in Sweden.

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[480] The United States also has a tax treaty with Norway. It is beyond the scope of this review to compare the enforcement provisions of the U.S.-Norway treaty with Norway's other treaties.

[481] The identified tax haven countries are: in Europe, Andorra, Cyprus, Gibraltar, the Isle of Man, the Channel Islands, Liechtenstein, Luxembourg (but only with respect of income received by certain holding companies), Malta, Monaco, and San Marino; in the Americas, Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, Bermuda, the British Virgin Islands, the Cayman Islands, Dominica, the Falkland Islands, Grenada, Jamaica, Monserrat, the Netherlands Antilles, Panama, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, the Turks and Caicos Islands, and the U.S. Virgin Islands; in Africa and the Middle East, Bahrain, Jordan, Lebanon, Liberia, Mauritius, Oman, the Seychelles Republic, and the United Arab Emirates; and in Asia and the Pacific, Brunei, the Cook Islands, Fiji, Hong Kong, Macau, the Mariana Islands, Nauru, Singapore, the Solomon Islands, and Vanuatu.

In the case of an individual who leaves Sweden to take up residence in a country with which Sweden has a tax treaty, the effect of this deemed status as a Swedish resident is generally overridden. However, a number of Swedish tax treaties do not cover the Swedish net wealth tax. Hence an individual can be a resident of Sweden for net wealth tax purposes and a resident of another country for income tax purposes.[482] In the case of countries with which Sweden has no tax treaty in force, Sweden does not provide a credit or deduction for foreign taxes paid by the individual in his country of residence. This creates the potential for double taxation of income.

Imposition of exit tax on citizens or long-term residents

Australia

Australia imposes a tax on the income from capital gains when a "capital gains tax event occurs."[483] One capital gains tax event occurs when individuals, companies, or trusts stop being Australian residents. A former resident person is required to compute gain or loss for each qualifying asset owned just prior to the time of becoming nonresident, except for assets having a connection with Australia[484] or for assets acquired before September 20, 1985. For this purpose, gain or loss is determined as the fair market value of the asset at the time just prior to becoming nonresident, less the taxpayer's basis.

An election is available for a taxpayer to disregard the tax on gain on any asset by reason of becoming a nonresident until the earlier of another capital gains tax event (such as a subsequent sale of the asset) in relation to the asset or when the taxpayer again becomes an Australian resident. Electing individuals are expected to report voluntarily their gains and associated tax upon a subsequent disposition. No security is required to obtain the deferment of tax. Also, an individual is exempt from the capital gains tax if he or she was resident in Australia for less than five years during the 10 years before he or she stopped being a resident

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[482] Similar provisions apply for inheritance tax purposes.

[483] Fifty percent of the income from realized capital gains is included in income subject to tax.

[484] Assets having a connection to Australia are those assets upon which nonresidents would be liable for capital gains tax. Nonresidents are subject to capital gains tax on taxable Australian assets including real property situated in Australia, stock holdings in non-publicly traded Australian companies, stock holdings in publicly traded companies where the nonresident shareholder (and related parties) hold 10 percent or more of the stock, interests in Australian partnerships, holdings in Australian unit trusts (i.e., mutual funds), an option or other right to acquire a capital gains tax asset, and certain shares or other security interests in a company that the taxpayer received as consideration for the disposal of another capital gains tax asset. Bilateral income tax treaties often preclude taxation by one treaty country of capital gains realized by residents of the other treaty country, except for gains from the disposition of real property situated in the first country. The U.S.-Australia income tax treaty, however, generally allows each country to tax capital gains from sources in that country realized by residents of the other country.

and he or she owned the assets prior to becoming an Australian resident or if he or she acquired the asset as an Australian resident as a bequest.

There may be significant potential for noncompliance with respect to such an exit tax. Assets that leave the country before the resident leaves are effectively beyond the reach of the Australian tax authorities.

Canada

A taxpayer is deemed to have disposed of certain capital gain property at its fair market value upon the occurrence of certain events, including death or relinquishment of residence. Real property, capital property, and inventory used in a business are exempt from tax upon relinquishing residence, as are investments in registered retirement savings plans. Like Australia, a departing individual may elect to defer the tax on the accrued gain on any asset until the asset is sold. However, the Canadian tax authorities generally require an electing taxpayer to provide security necessary to ensure that the deferred tax will be collected.

An individual who was not resident in Canada for more than five years during the 10-year period preceding departure is not subject to this deemed disposition rule with respect to property owned by such individual when he or she became resident or to property inherited since becoming a resident. Nonresidents who return to Canada after emigrating may elect to reverse the tax effects of the deemed dispositions regardless of how long they were nonresidents.

Denmark

Prior to January 1, 1995, if an individual left Denmark after having been a permanent resident for at least four years, the individual remained a resident for income tax purposes for up to an additional four years unless the individual could establish that he or she would be subject to a substantially equivalent income tax in the new country of residence. Effective January 1, 1995, a Danish citizen can achieve nonresident status immediately upon leaving Denmark if whole-year accommodations were no longer available to him or her in Denmark. Danish income tax generally applies to capital gains realized on shares in corporations and other financial instruments when realized and to pension income when distributed. However, nonresidents are not liable for Danish income tax on Danish-source capital gains on shares or bonds. Pension distributions received by nonresidents from Danish pension plans are liable for Danish income tax, but many tax treaties effectively override this provision of Danish law.

Since 1987, Denmark has imposed a departure tax on certain unrealized capital gains and certain pension assets. An individual who has been resident for at least five of the preceding 10 years and who becomes a nonresident under Danish law or who becomes a resident of another country as provided under treaty is deemed to have disposed of bonds, [485]certain holdings of stock, and certain other financial instruments. The deemed disposal of stock applies to stock

[485] With respect to bonds and other debt instruments, the individual must have been resident for at least seven of the 10 years preceding cessation of residence for the provision to have effect.

owned by shareholders who hold at least 25 percent of the share capital in the company or who control more than 50 percent of the voting power. Shareholders of less substantial interests also are subject to the tax if the shares have been held for at least three years. For stock listed on exchanges, an exemption of Dkr121, 400 ($16,116) (Dkr242,800 ($32,232) for joint returns) applies to the aggregate of all the individual's exchange listed stock. In addition, for publicly traded financial instruments subject to the departure tax, losses are deemed to be realized so that only net gains are subject to the tax. For unlisted shares, the value for the purpose of determining gain is determined by a formula that in practice often may understate market value. The deemed disposition also applies to an individual's business assets for the purpose of depreciation recapture. If an individual ceases residency and by cessation of residency the individual is not taxable on his or her employment income in Denmark as a nonresident, stock options received as employment compensation are includible in income in the year in which the individual ceased residency. In addition, certain pension contributions made in the five years [486] prior to an individual's removal from Denmark are subject to tax.

Payment of the tax liability may be postponed (with security) until actual sale occurs or the shareholder dies. If the shares are sold at a lower price while the individual is a nonresident, the departure tax is recalculated. If the individual repatriates prior to sale of the assets, the departure tax liability is cancelled. In addition, there are provisions for double tax relief in the case in which the individual's new country of residence imposes a tax on the actual sale.

Apparently the departure tax was imposed in response to the relocation to other European countries of certain high net worth permanent resident individuals who held substantial interests in Danish businesses. While no statistics are available on the amount of revenue collected by the departure tax, the perception is that the provisions have had some effect on the relocation decision of such individuals.

Germany

As explained above, in addition to the extended limited tax liability applied to former residents of Germany, if an emigrating individual has owned at least one percent of a company's shares at any time during the preceding five years, the individual is deemed to have sold the shares when he or she leaves the country. The gain from the deemed sale is calculated by determining the fair market value at the time of relinquishing German residence less the taxpayer's basis.

Singapore

Effective with stock options granted on or after January 1, 2003, residents who leave Singapore must pay a tax based on the value of any stock options they hold at the time of departure. The tax, at a maximum rate of 22 percent, is to be imposed on the difference between the market price of the underlying stock, measured one month before the resident gives up his or her resident status, and the strike price of the option. If gains subsequently realized upon

[486] The lookback period is 10 years for pension contributions of individuals who are substantial shareholders in the corporation sponsoring the pension plan.

exercise of the options are lower than the deemed realization, the individual may seek a refund from the Inland Revenue Authority of Singapore.[487] Singapore generally does not tax income from capital gains, but does impose an income tax on residents on their wages and other sources of employment income at the time such compensation is paid and employer-provided stock options at the time of exercise.

Treatment of accrued gains of immigrants

If an individual emigrates from one country to another and if the former country either imposes a tax upon accrued gain at the time of exit or asserts tax liability on former residents, double taxation of income from capital gain may occur. This problem would be eliminated if the immigrant country were to forgo taxation of any gain accrued on property owned by an immigrant prior to his or her immigration. Both Australia and Canada, countries with an exit tax, forgo taxation of gain accrued prior to immigration. An individual who becomes an Australian resident is permitted to take a basis in his non-Australian assets equal to their fair market value at that time, for all purposes. The step-up is not a taxable event in Australia. An individual who becomes a Canadian resident also is permitted to take a basis in his non-Canadian assets equal to their market value at that time, for all purposes. The step-up is not a taxable event in Canada. In both Australia and Canada, the exemption for previously accrued gain is permanent regardless of whether the individual subsequently sells the asset or holds it until death. Since November 2, 1994, Denmark has provided a step up in value of assets held by an individual who becomes a tax resident of Denmark. Also as noted above, for purposes of the German deemed tax on the sale of certain substantial interests in German corporations, if the taxpayer held the interest in the German corporation when he first became a German resident, he may use the fair market of the stock (in lieu of the historical cost) at the time he became a resident in computing the gain.

Israel offers a limited exemption for gain accrued prior to immigration. Immigrants are exempt from tax on capital gains from the realization of assets that they possessed prior to immigrating to Israel and that are sold within seven years of immigration.[488] If such property is sold more than seven years after immigration, the entire gain is subject to Israeli tax. In the case of a corporation that transfers its business headquarters to Israel, gains realized from assets possessed prior to relocation and sold within seven years are subject to a reduced rate of tax.

Australia, Canada, Denmark, and Israel appear to be exceptions with respect to the treatment of accrued gains of immigrants. Most countries do not offer immigrants a step-up in basis on their assets (Australia, Canada, and Denmark) or a limited exemption (Israel). Several countries tax the realized capital gains of residents, including gain accrued by immigrants prior to immigration, while some others do not. Among the countries that impose taxes on former residents, Germany generally exempts from income taxation gains on assets held for longer than

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[487] Bureau of National Affairs, *Daily Tax Report*, September 5, 2002, p. G-2.

[488] The exemption appears to extend to any gain that accrues to the asset during the immigrant's first seven years in Israel. The exemption may be universal. At the discretion of the tax commissioner, otherwise exempt gains may be subject to a reduced rate of tax.

six months.[489] The Netherlands also generally exempts gain from tax except with respect to business assets and substantial interests in a Dutch company.

[489] Germany subjects to income taxation gains from the sale of certain "speculative" assets and gain from the sale of real estate held for less than two years. Also, as explained in the text above, gains from sales of shares by "substantial" shareholders are subject to tax.

B. Summary of Other Countries' Taxation of Estates, Inheritances, and Gifts

Overview

The material below surveys[490] the estate or inheritance tax and gift tax systems of the following countries: Australia, Austria, Bahamas, Belgium, Belize, Bermuda, Canada, Cayman Islands, Costa Rica, Denmark, Dominican Republic, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Philippines, Portugal, Seychelles, Singapore, South Africa, Spain, Sweden, Switzerland, Taiwan, Turkey, and the United Kingdom.[491]

Among the countries surveyed, an inheritance tax is more common than an estate tax as is imposed in the United States. An inheritance tax generally is imposed on the transferee or donee rather than on the transferor or donor. That is, the heir who receives a bequest is liable for a tax imposed and the tax generally depends upon the size of the bequest received. The United States also imposes a generation skipping tax in addition to any estate or gift tax liability on certain

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[490] The information is a summary prepared by the Joint Committee staff with the assistance of the staff of the Law Librarian of the Library of Congress. The Joint Committee staff previously summarized other countries' taxation of estates, inheritances, and gifts. See the 1995 Joint Committee staff study, supra note 315. This section updates that summary. The Joint Committee staff derived these summaries primarily from the examination of secondary materials and the summary is not intended as an authoritative representation of foreign laws, but rather as a summary of the primary features of certain foreign wealth transfer statutes. The primary sources used in developing this summary were: Organization for Economic Cooperation and Development, *Taxation of Net Wealth, Capital Transfers and Capital Gains of Individuals*, (Paris: OECD), 1988; W. H. Diamond (editor), *Foreign Tax and Trade Briefs*, (New York: Matthew Bender), 1995; G. J. Yost, ed., *1993 International Tax Summaries*, (New York: John Wiley, Coopers and Lybrand International Tax Network), 1993; Ernst and Young International, *Worldwide Executive Tax Guide*, September 1999; Ernst and Young, *The Global Executive, 2002*, October 2001; Catherine S. Bobbett (editor), *Taxation Individuals in Europe, (Guides to European Taxation, Vol. VI)*, International Bureau of Fiscal Documentation, March 2002, (IBFD Publications BV: Amsterdam, The Netherlands); International Bureau of Fiscal Documentation, *Taxes and Investment in Asia and the Pacific*, various supplements 1999, 2000, and 2001, (IBFD Publications BV: Amsterdam, The Netherlands); International Bureau of Fiscal Documentation, *African Tax Systems*, Supplement No. 118, March 2001, (IBFD Publications BV: Amsterdam, The Netherlands); *Tax Laws of the World, South Africa*, February 2001, (Foreign Tax Law, Inc.: Ormand Beach, Florida); Walter H. Diamond and Dorothy B. Diamond (editors), *Tax Havens of the World*, June 2002, (LexisNexis); and Barry Spitz, 2000 *International Tax Havens Guide*, (New York: Harcourt Professional Publishing).

[491] The countries in this survey include most of the OECD countries, plus certain other countries (the Bahamas, Belize, Bermuda, Cayman Islands, Costa Rica, Dominican Republic, Hong Kong, Israel, Philippines, Seychelles, Singapore, South Africa and Taiwan), some of which have been identified as the worldwide tax home of some individuals who terminate their U.S. citizenship or long-term residency.

transfers to generations two or more younger than that of the transferee. This effectively raises the marginal tax rates on affected transfers. Countries that impose an inheritance tax do not have such a separate tax but may impose higher rates of inheritance tax on bequests that skip generations.

The survey generally reveals that the provisions of the U.S. estate and gift tax (1) exempting transfers between spouses, (2) providing an effective additional exemption of $1.0 million through the unified credit,[492] and (3) providing an $11,000 annual gift tax exemption per donee, may result in a larger exemption (a larger zero-rate tax bracket) than many other developed countries. However, because most other countries have inheritance taxes, the total exemption depends upon the number and type of beneficiaries. While the effective exemption may be larger, with the exception of transfers to spouses which are untaxed, marginal tax rates on taxable transfers in the United States generally are greater than those in other countries. This is particularly the case when comparing transfers to close relatives, who under many inheritance taxes face lower marginal tax rates than do other beneficiaries. On the other hand, the highest marginal tax may be applied at a greater level of wealth transfer than in other countries. Again, it is often difficult to make comparisons between the U.S. estate tax and countries with inheritance taxes because the applicable marginal tax rate depends on the pattern of gifts and bequests.

What the survey cannot reveal is the extent to which the practice of any of the foreign transfer taxes is comparable to the practice of transfer taxation in the United States. For example, in the United States, transfers of real estate generally are valued at their full and fair market value. In Japan, real estate is assessed at less than its fair market value.[493] Also unclear in the description below of various estate and inheritance taxes is the ability of transferors to exploit special tax breaks.

Specific country estate, inheritance, and gift tax provisions

Australia

Australia does impose not an estate, inheritance, or gift tax. However, the transferee receiving assets with accrued capital gains transferred at death retains the transferor's basis in the assets,[494] except for assets acquired prior to September 20, 1985. The basis of those assets

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[492] As explained in Part IV, above, both the unified credit and the marginal tax rates applicable to taxable transfers are scheduled to change between the present and 2011. The comparisons drawn in the text are on the basis of the law applicable in 2002.

[493] Thomas A. Barthold and Takatoshi Ito, "Bequest Taxes and Accumulation of Household Wealth: U.S.-Japan Comparison," in Takatoshi Ito and Anne O. Kreuger (eds.), *The Political Economy of Tax Reform* (Chicago: The University of Chicago Press), 1992, pp. 250-251.

[494] If the beneficiary is a tax-exempt person, the asset is treated as disposed and the gain is includible in the decedent's income subject to income taxation.

acquired prior to September 20, 1985, is stepped up to market value at the death of the transferor. Assets with accrued gains transferred by gift are treated as disposed and 50 percent of the gain is includible in the transferor's income subject to income taxation.

Austria

Austria imposes an inheritance tax and a gift tax. The tax applies to all transfers made or received by residents and to transfers of certain Austrian property by nonresidents. Austrian citizens are treated as residents for purposes of the inheritance tax for two years after emigration.

The first €2,180 ($2,149)[495] of inheritances received by the spouse, children, or grandchildren of a decedent are exempt from tax. For siblings, in-laws, nephews, and nieces the first €436 ($430) are exempt. For other inheritances, the first €72.7 ($72) are exempt. In addition, transfers by gift to a spouse are exempt up to €7,267 ($7,166) per ten-year period.

For taxable transfers, there are five different tax rate schedules: spouse and children; grandchildren and great grandchildren; lineal ascendants and siblings; in-laws, nephews, and nieces; and all others. For spouses and children, marginal tax rates begin at two percent on the first €7,267 ($7,166) of taxable transfers and rise to 15 percent on taxable transfers in excess of €4,360,370 ($4.299 million). For grandchildren, marginal tax rates begin at four percent on the first €7,267 of taxable transfers and rise to 25 percent on taxable transfers in excess of €4,360,370. For lineal ascendants and siblings, marginal tax rates begin at six percent on the first €7,267 of taxable transfers and rise to 40 percent on taxable transfers in excess of €4,360,370. For in-laws, nephews and nieces, marginal tax rates begin at eight percent on the first €7,267 of taxable transfers and rise to 50 percent on taxable transfers in excess of €4,360,370. For all others, marginal tax rates begin at 14 percent on the first €7,267 of taxable transfers and rise to 60 percent on taxable transfers in excess of €4,360,370.[496]

Bahamas

The Bahamas has no estate tax, inheritance tax, gift tax, wealth tax, or income tax. However, a four-percent probate duty is levied on any gross personal estate situated in the Bahamas.

Belgium

Belgium imposes an inheritance tax and a gift tax. The tax applies to all transfers of property upon the death of a resident and to the transfer of real property located in Belgium on

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[495] The material available to the Joint Committee staff reports exemptions and rate brackets in Austrian schillings. However, Austria has converted to the Euro. In the text, exemptions and rate brackets are reported in Euros, converting by the rate established in European Union regulation number 2866/98 that establishes irrevocably fixed conversion rates between member states adopting the Euro.

[496] Charitable bequests and gifts are taxed at a flat 2.5 percent rate.

the death of a nonresident. All immovable property located in Belgium and moveable, securitized property are subject to tax upon transfer by gift. The structure of these taxes depends upon the region of the country in which one lives, with the application in the Brussels and Walloon region differing from that of the Flemish region.

Brussels and Walloon region.–Any transfer from an estate of less than €620 ($611)[497] is exempt from tax. The first €12,395 ($12,221), plus an additional €1,239 ($1,222) for each minor child for each remaining year of minority, of transfers to a spouse is exempt from tax for transfers at death. For a child, the first €12,395 plus €2,479 ($2,444) for each remaining year of minority is exempt from tax. In general, there are no exemptions with regard to transfers by gifts. However, additional exemptions are permitted to the recipient of a bequest or gift if the recipient has at least three minor children. This additional exempt amount cannot exceed €124 ($122) per child.

For taxable transfers, there are four different tax rate schedules: spouses and direct ascendants or descendants; siblings; uncles, aunts, nephews, and nieces; and all others. For spouses and direct ascendants or descendants, marginal tax rates begin at three percent on the first €12,395 of taxable transfers and rise to 30 percent on taxable transfers in excess of €495,787 ($488,845). For siblings, marginal tax rates begin at 20 percent on the first €12,395 of taxable transfers and rise to 65 percent on taxable transfers in excess of €173,525 ($171,095). For uncles, aunts, nephews, and nieces, marginal tax rates begin at 25 percent on the first €12,395 of taxable transfers and rise to 70 percent on taxable transfers in excess of €173,525. For all other transferees, marginal tax rates begin at 30 percent on the first €12,395 of taxable transfers and rise to 80 percent on taxable transfers in excess of €173,525. Inheritances or gifts of family of small business assets are subject to an alternative tax at a flat rate of three percent. Proportional taxes of 1.1 percent, 6.6 percent, or 8.8 percent are levied on gifts to certain charities, nonprofit organizations, and local governments.

Flemish region.–In the case of bequests, a tax credit is allowed that is related to the first €496 ($489) of inheritance tax liability and is also related to the recipient's share in the decedent's estate. For spouses,[498] descendants, and ascendants, the credit is equal to €496 multiplied by the quantity one minus the recipient's share in the estate. Thus, if a child were left one fourth of his father's estate, the child's tax credit would be €372 ($367). Minor children may claim an additional tax credit of €74 ($73) for each full year of age that the child is under 21. In addition, a surviving spouse may claim an additional tax credit equal to one-half the sum of the tax credits applicable to all common children.

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[497] The material available to the Joint Committee staff reports exemptions and rate brackets in Belgian francs. However, Belgium has converted to the Euro. In the text, exemptions and rate brackets are reported in Euros, converting by the rate established in European Union regulation number 2866/98 that establishes irrevocably fixed conversion rates between member states adopting the Euro.

[498] For inheritance tax purposes, a domestic partner for an uninterrupted period of at least one year prior to the decedent partner's death qualifies as a spouse.

For gift taxes purposes, the tax rate schedules in the Flemish region are the same as in the Brussels and Walloon regions. For inheritances, in the case of a spouse, descendant, or ascendant, marginal tax rates begin at three percent on the first €49,779 ($49,082) and rise to 27 percent on taxable transfers in excess of €247,894 ($244,423). For bequests to siblings, marginal tax rates begin at 30 percent on the first €74,368 ($73,327) of taxable transfers and rise to 65 percent on taxable transfers, in excess of €123,947 ($122,212). For all other inheritances, marginal tax rates begin at 45 percent on the first €74,368 of taxable transfers and rise to 65 on taxable transfers in excess of €123,947. As in the Brussels and Walloon region, inheritances of family or small business assets are subject to an alternative tax at a flat rate of three percent.

Belize

Belize imposes an estate tax and a gift tax on residents. Marginal estate tax rates begin at a rate of one percent on the first B$500 ($227)[499] of the taxable estate with marginal tax rates increasing to 25 percent on that part of the estate in excess of B$50,000 ($22,727). However, under either the Belizean "Economic Citizen Investment Program" or the "Retired Persons Incentives Act," an individual may become an economic citizen or a qualified retired person and be treated as non-resident for purposes of establishing a Belizean offshore exempt trust.[500] If a settlor of an offshore exempt trust names non-resident beneficiaries of the trust, the trust is exempt from income, estate, and gift taxes.

To become a qualified economic citizen a head of household must invest B$50,000 ($22,727) in the Belize Economic Citizenship Investment Fund and pay a registration fee of B$50,000. The individual's spouse and children under 18 can be included as economic citizens for an additional B$10,000 ($4,545) each.[501] To become a qualified retired person, an individual must be at least 45 years old, a citizen or legal resident of the United States, the United Kingdom, Canada, or Belize, and the beneficial owner of a pension or annuity paying B$1,000 ($455) per month. In addition, the individual must deposit B$2,000 ($909) per month in a bank or other Belizean financial institution.[502] The individual may make withdrawals on the account, but regular deposits must be maintained.

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[499] The United States Department of Treasury, Financial Management Service, *Treasury Reporting Rates of Exchange as of September 30, 2002*, November 22, 2002, reports an exchange rate of 2.2 Belizean dollars for one United States dollar as of September 30, 2002. The Belizean dollar to U.S. dollar conversions in the text are made at that exchange rate.

[500] A qualified economic citizen or qualified retired person also is exempt from Belizean income tax.

[501] Different registration fees apply to dependent parents of the head of household or when the head of household is a single individual.

[502] Alternatively, the individual may make an annual deposit of B$24,000 ($10,909).

Bermuda

Bermuda imposes an estate tax on the value of the decedent's estate situated in Bermuda. Shares in business enterprises are not part of the taxable estate unless the decedent had been a resident at the time of his or her death. The first $50,000[503] of the estate is exempt from tax. For estates valued between $50,000 and $200,000, the marginal tax rate is five percent. The highest marginal tax rate is 15 percent for estates valued in excess of $1 million. Bermuda does not impose a gift tax.

Canada

Canada does not impose an estate, inheritance, or a gift tax. However, gains accrued on assets held by a taxpayer at the time of his death are treated as realized and taxable as income to the taxpayer. In the case of property transferred to a spouse at death, the spouse is treated as having acquired the asset at the transferor's basis. Carry-over basis also is permitted in the case of agricultural property bequeathed to a child of the decedent. Assets with accrued gains transferred by gift are treated as if transferred at the death of the transferor.

Cayman Islands

The Cayman Islands does not impose any tax on estates, inheritances, or gifts.

Costa Rica

Costa Rica does not impose any tax on estates, inheritances, or gifts.

Denmark

Denmark imposes an inheritance tax and a gift tax. Bequests and gifts to a spouse or registered homosexual partner are exempt from the inheritance tax and the gift tax. Otherwise all transfers at death by a resident are liable for the tax. Transfers at death of real property in Denmark by nonresidents are liable for the tax. The gift tax applies if either the donor or donee is a resident, but only if the donee is a child or other descendant, parent, grandparent, son-in-law, daughter-in-law, or spouse of a deceased child. Others who receive gifts must include them in income for income tax purposes.

The first Dkr48,200 ($6,399) of gifts is exempt from gift tax annually in the case of gifts to descendants, the spouse of a deceased child, parents, grandparents, or a domestic partner. The annual gift tax exemption for sons-in-law or daughters-in-law is Dkr16,900 ($2,243).

For taxable transfers at death, there are two different tax rate schedules: bequests to descendants, sons-in-law, daughters-in-law, spouse of a deceased child, ex-spouse, parents, and domestic partners; and bequests to others. For the first class of beneficiaries inheritances in excess of Dkr216,900 ($28,794) are taxed at a marginal rate of 15 percent. For the second class of beneficiaries, inheritances in excess of Dkr216,900 are taxed at a marginal rate of 36.25

[503] The U.S. dollar or the pound Sterling are official currency in Bermuda.

percent. Gifts in excess of the annual exclusion amounts are generally taxable on the same schedule.

Dominican Republic

The Dominican Republic imposes an inheritance tax and a gift tax. If the deceased person was a resident of the Dominican Republic, an inheritance or gift tax is imposed on all net inherited assets and gifts. Bequests of assets located in the Dominican Republic made by nonresidents also are subject to the inheritance tax. Transfers by gift from nonresident donors of assets located in the Dominican Republic are subject to a gift tax.

The rates of the inheritance and gift taxes are the same and vary by class of recipient.[504] In the case of taxable transfers to a spouse or lineal ascendant or descendant, tax rates range from one to 17 percent. In the case of transfers to a sibling, nieces, or nephew, tax rates range from three to 21 percent. For transfers to other relatives, tax rates range from six to 27 percent. For transfers to all others, tax rates range from eight to 32 percent. In all cases, if the beneficiary of the transfer is not a resident of the Dominican Republic, the tax liability is increased by 50 percent.

Finland

Finland imposes an inheritance tax and a gift tax. All transfers at death by residents are subject to tax. All transfers at death of Finnish property by nonresidents are subject to tax. All gifts of Finnish property are subject to tax and, for residents, gifts of certain foreign property are subject to tax.

The first €10,199 ($10,056) of bequests to a spouse (including a domestic partner) is exempt from tax. For any lineal descendant under age 18, the first €6,799 ($6,704) is exempt from tax. The first €3,399 ($3,351) of any other bequest is exempt from tax.

For taxable transfers, there are three different tax rate schedules: spouse (including a domestic partner),[505] parent, child or child's direct heir; siblings and their descendants; and others. For spouses, parents, children, and children's heirs, tax rates begin at a flat 10 percent on the first €13,600 ($13,410) of taxable transfers, followed by a marginal rate of 13 percent on the next €33,000 ($32,538), and rise to a 16 percent marginal tax rate on taxable transfers in excess of €46,600 ($45,948). For siblings and their decedents, the applicable tax rates are twice those above. For all others, the applicable tax rates are three times those above.

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[504] A parent may not bequeath more than 50 percent of his or her estate to others if there is one surviving lineal descendant (33.3 percent if two surviving lineal descendants).

[505] The decedent's fiancé/fiancée also may fall into this category in certain circumstances.

The gift tax uses the same rate schedule. All gifts from the same donor received within a three-year period are cumulated for the purpose of determining gift tax liability. The first €3,400 of gifts received from each donor within a three-year period are exempt from tax.

France

France imposes an inheritance tax and a gift tax. The tax applies to worldwide transfers of assets by residents and to assets located in France when transferred by nonresidents. However, subject to treaty provisions since January 1, 1999, assets, wherever located, are taxable to France if the beneficiary has been fiscally resident in France for at least six years during the ten-year period preceding that in which the inheritance or the gift occurs. All gifts made to heirs and legatees during the ten-year period preceding the date of death are brought back into the estate and must be declared for the assessment in inheritance tax. This rule applies to residents and non-residents.

The first €76,000 ($74,936) are exempt from tax for transfers to a spouse occurring on or after January 1, 2002. The exemption is €46,000 ($45,356) in the case of children or parents. A €1,500 ($1,479) allowance applies to all successions (but not to gifts), whatever the relationship, when no other allowance is available. These exempt amounts are allowed for a ten-year period that commences upon the date of the first transfer.

For taxable transfers, there are four different tax rate schedules: spouses, parents and children; siblings; other relatives up to fourth degree removed; and other persons. For spouses, parents, and children, marginal tax rates begin at five percent on the €7,600 ($7,494) and rise to 40 percent on taxable transfers in excess of €1.7 million ($1.68 million). For siblings, marginal tax rates begin at 35 percent on the first €23,000 ($22,678) of taxable transfers and are 45 percent thereafter. For other relatives, the marginal tax rate is 55 percent on all taxable transfers. For other persons, the marginal tax rate is 60 percent on all taxable transfers.

Certain survivor annuities for a spouse or direct descendant and certain life insurance proceeds are exempt from tax.

Germany

Germany imposes an inheritance tax and a gift tax. Residents are liable for tax on all property received. Nonresidents are liable for tax on assets located in Germany, but only if either the donor or donee is a German resident.

The spouse is exempt from tax on the first €307,000 ($302,702) received by gift or the first €563,000 ($555,117) received by bequest.[506] Children are exempt from tax on the first €205,000 ($202,130) received. In the event of a transfer by bequest, this basic exemption amount is increased by €52,000 ($51,272) for children up to five years old, by €41,600 ($41,018)

[506] The additional €256,000 spousal exemption is reduced by the capitalized value of pension or similar benefits received by the surviving spouse by reason of the death of the deceased.

for children five to 10 years old, by €31,200 ($30,763) for children 10 to 15 years old, by €20,800 ($20,509) for children 15 to 20 years old, and by €10,300 ($10,156) for children 20 to 26 years old.[507] Step children, grandchildren, great grandchildren, and, in the case of a bequest, parents and grandparents are exempt from tax on the first €52,000 ($51,272) received. Siblings, nieces, nephews, stepparents, sons-in-laws, daughters-in-law, parents-in-law, divorced spouses, and, in the case of a gift, parents and grandparents are exempt from tax on the first €10,300 ($10,156) received.[508] All others are exempt from tax on the first €5,200 ($51,272) received.

For taxable transfers, the tax rate is determined by the class of beneficiary and is graduated according to the value of the transferred property. There are three classes of beneficiary. The first class comprises spouse, children, grandchildren, great grandchildren, and, for bequests but not gifts, parents and grandparents. The second class comprises siblings, children of siblings, divorced spouses, stepparents, children and parents of spouses, and, for gifts, parents and grandparents. All other persons compose the third class. For the first class of beneficiaries, marginal tax rates are seven percent on the first €52,000 of taxable transfers and rise to marginal tax rate of 30 percent on taxable transfers in excess of €25.565 million ($25.207 million). For the second class of beneficiaries, marginal tax rates are 12 percent on the first €52,000 of taxable transfers and rise to marginal tax rate of 40 percent on taxable transfers in excess of €25.565 million. For the third class of beneficiaries, marginal tax rates are 17 percent on the first €52,000 of taxable transfers and rise to marginal tax rate of 50 percent on taxable transfers in excess of €25.565 million.

Various exemptions or preferential treatments are granted for household or personal effects, property of artistic value or of service to the public welfare, benefits under various social security and survivor plans, and for business property. Among these is an exemption for beneficiaries of the first class, for household goods up to a value of €41,000 ($40,426) and for other personal property up to a value of €10,300, and either a total or 60-percent exclusion for qualifying real property serving artistic purposes, collections of art, and scholarly libraries. For qualifying substantial participation in business property and for real estate used for agriculture and forestry, the first €256,000 ($252,416) of the property value is exempt from tax.[509] For property valued in excess of €256,000, 40 percent of the value of the property is excluded from tax and the tax rate schedule applicable to beneficiaries in the first class is applied even if the assets are bequeathed to beneficiaries in the second or third class.

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[507] As in the case of a surviving spouse, these additional exempt amounts are reduced by the capitalized value of pension or similar benefits received by reason of the death of the deceased.

[508] For purposes of the exempt amounts, all gifts within a ten-year period are aggregated.

[509] This exemption must be split across all beneficiaries receiving qualifying property.

Greece[510]

Greece imposes an inheritance tax and a gift tax. In the case of a Greek citizen, regardless of where he is domiciled, the tax applies to all property in Greece and movable property located outside Greece. There is no inheritance tax liability related to property located outside of Greece that was owned by a decedent who was a Greek citizen, but who at the time of his death had been a resident of a foreign country for more than 10 years. For resident noncitizens of Greece, the tax applies to all movable property. Non-resident foreigners are liable for tax on any property located in Greece.

There are four different categories of heirs or transferees: parents, spouse, children, and certain illegitimate children; grandchildren, grandparents, siblings, step-siblings, nephews, and nieces; in-laws, foster parents, step-parents, and children from a spouse's previous marriage; and all others. The first €19,076 ($18,809)[511] of transfers to a parent, spouse, child, and certain illegitimate children is exempt from tax. The first €14,764 ($14,557) of transfers to grandchildren, grandparents, siblings, step-siblings, nephews and nieces is exempt from tax. The first €6,163 ($6,077) of transfers to in-laws, foster parents, step-parents, and children from a spouse's previous marriage is exempt from tax. The first €3,522 ($3,473) of transfers to all others is exempt from tax. For purposes of the exemptions and tax rates, there is lifetime integration of gifts and inheritances.

For the first category of heirs, marginal tax rates begin at five percent on the first €33,749 ($33,276) of taxable transfers (transfers in excess of the exempt amount) and rise to 25 percent on taxable transfers in excess of €192,223 ($189,532). For the second category of heirs, marginal tax rates begin at ten percent on the first €38,151 ($37,617) and rise to 35 percent on taxable transfers in excess of €173,147 ($170,723). For the third category of heirs, marginal tax rates begin at 20 percent on the first €46,662 ($46,009) and rise to 50 percent for taxable transfers in excess of €164,637 ($162,332). For the fourth category of heirs, marginal tax rates begin at 35 percent on the first €49,303 ($48,613) and rise to 60 percent on taxable transfers in excess of €161,996 ($159,728). In the case of a bequest from a parent to his or her minor child, the otherwise applicable tax rates are reduced by 60 percent on the first €35,216 ($34,723). That is, the marginal tax rate would be zero or two percent. On the next €102,715 ($101,277) of such gifts, applicable tax rates are reduced by 30 percent. That is, the marginal tax rates would be 3.5 percent and 10.5 percent. Lifetime gifts from a parent to a child are taxed at half the ordinary rates for gifts up to €82,172 ($81,021).

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[510] In July 2002, the Greek Parliament adopted a new, reduced tax rate schedule applicable to inheritances. This schedule is not available to the Joint Committee staff at present. The summary of Greek law in the text reflects amendments to inheritance and gift tax laws that the Greek Parliament adopted in November 2001.

[511] The material available to the Joint Committee staff reports exemptions and rate brackets in Greek drachma. However, Greece has converted to the Euro. In the text exemptions and rate brackets are reported in Euros, converting by the rate established in European Union regulation number 1478/2000 that establishes irrevocably fixed conversion rates between member states adopting the Euro.

Hong Kong

Hong Kong imposes an estate tax on the value of property situated in Hong Kong that is transferred on death. The estate tax is imposed at a flat rate on the total value of the taxable estate and the rate of tax is determined by the total value of the estate.[512] For taxable estates valued up to HK $7.5 million ($961,538)[513] there is no tax. For taxable estates valued above HK $7.5, but less than HK $9 million ($1.154 million), a tax of five percent is imposed on the entire taxable estate. For taxable estates valued above HK $9 million, but less than HK $10.5 million, ($1.346 million), a tax of 10 percent is imposed on the entire taxable estate. For taxable estates valued in excess of HK $10.5 million, a tax of 15 percent is imposed on the entire taxable estate.

Hong Kong does not tax transfers by gift.

Iceland

Iceland imposes an inheritance tax and taxes gifts as income to the donee. Spouses are exempt from the inheritance tax. There are three classes of heirs for purposes of the inheritance tax: children; parents and siblings; and all others. Marginal tax rates on bequests to children begin at one percent and rise to 10 percent. Marginal tax rates on bequests to parents and siblings begin at 15 percent and rise to 25 percent. Marginal tax rates on all other bequests begin at 30 percent and rise to 45 percent.

Ireland

Ireland imposes an inheritance tax and a gift tax. Tax is imposed on all transferred property if the donor or donee is resident in Ireland.[514] In other cases, the tax applies only to transfers of Irish property.

All inheritances received by a surviving spouse are exempt from tax. Gifts to a spouse during the donor's lifetime also are exempt from gift tax. The cumulative total of all gifts and inheritances received by an individual since December 2, 1998, that exceeds certain exempt thresholds is taxable at a flat rate of 20 percent. Children and the minor grandchild of a deceased

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[512] Because the same rate of tax is imposed on the entire taxable estate, but the rate varies with the size of the taxable estate, extremely high marginal tax rates arise at the breakpoints. Tax authorities may grant relief for estates slightly in excess of one of the breakpoints.

[513] The Hong Kong dollar is pegged to the U.S. dollar at an exchange rate of 7.8 Hong Kong dollars to one U.S. dollar. The currency conversions reported in this paragraph were made at that rate.

[514] An individual who is not domiciled in Ireland is not treated as resident or ordinary resident unless the individual was resident in Ireland for the five consecutive years preceding the year of gift or bequest. For gifts or bequests after December 1, 2004, an individual can be resident for inheritance and gift tax purposes even if not domiciled in Ireland.

child are exempt on the first €402,253 ($396,621)[515] of cumulative transfers. For transfers to parents, the exempt cumulative threshold is €402,253 with respect to inheritances and €40,225 ($39,662) with respect to gifts. For certain other relatives (lineal ancestors, other than parents, lineal descendants other than children or the minor grandchild of a deceased child, and siblings), the exemption is €40,225 and for others, the exempt threshold amount is €20,113 ($19,831).[516]

Certain insurance policies are exempt from inheritance taxes. Government securities and certain stocks received by foreign persons also are exempt. The value of closely held business property and agricultural property is reduced by 90 percent in the determination of the value of a transfer of such property. The €788 ($788) received per year per donee per donor is exempt from gift tax.

Israel

Israel does not impose an estate, inheritance, or gift tax. Property received by gift or inheritance retains the basis of the transferors (carryover basis).

Italy

Italy abolished inheritance and gift taxation effective October 24, 2001. However, transfer of real estate at death remains subject to a real estate transfer tax of three percent. In addition, gifts in excess of €180,759.91 ($178,229) to persons other than a spouse, a lineal ascendant, lineal descendant, or other relatives up to fourth degree removed are subject to tax at a rate of seven percent.

Japan

Japan imposes an inheritance tax and a gift tax. An individual who acquires property by inheritance, bequest, or gift and is domiciled in Japan, or who is a Japanese national temporarily traveling or residing abroad, is responsible for any tax liability on worldwide property received. An individual not domiciled in Japan is liable for taxes only relating to assets received that are located in Japan.

The Japanese inheritance tax relies on the concept of "statutory heir." Generally, the statutory heirs are the children and spouse if surviving, with grandchildren substituting for pre-deceased children. If there are no such surviving lineal descendants, lineal ascendant or lateral relations are designated statutory heirs. The total number of statutory heirs determines the size of the basic exemption. While a will may designate the distribution of property, the total tax

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[515] The material available to the Joint Committee staff reports exemptions and rate brackets in Irish pounds. However, Ireland has converted to the Euro. In the text exemptions and rate brackets are reported in Euros, converting by the rate established in European Union regulation number 2866/98 that establishes irrevocably fixed conversion rates between member states adopting the Euro.

[516] The threshold amounts are indexed for inflation after 2001.

liability of all transferred property is determined by determining the tax liability that would arise if the property were distributed according to what are referred to as "statutory shares." In the simple case, statutory shares would bequeath one-half of the decedent's estate to the surviving spouse and the remaining half would be divided pro rata among children of the decedent. The tax attributable to a bequest is determined as follows. (1) reduce the total value of the estate by liabilities; (2) reduce the residual by the basic exemption amount; (3) attribute the statutory shares of the estate to statutory heirs, and reduce each statutory heir's hypothetical bequest by any permitted exemption; (4) determine the tax liability for each statutory heir on his or her statutory share; and (5) sum the total tax liability of all hypothetical heirs and allocate that total liability to each actual heir and legatee based on their actual shares of the decedent's estate.

The basic exemption amount equals ¥50 million ($411,353) plus ¥10 million ($82,271) times the number of statutory heirs. For a surviving spouse, Japanese law provides a ¥160 million ($1.316 million) exemption. For minor children, Japanese law provides an exemption equal to ¥60 million ($493,624) multiplied by the numbers years the child is less than age 20. For bequests in excess of any exempt amount, marginal tax rates begin at 10 percent on the first ¥8 million ($65,817) and rise to 70 percent for bequests that exceed the exempt amount by ¥2 billion ($16.54 million) or more. Unrelated beneficiaries pay an additional 20 percent surcharge. If the surviving spouse inherits less than ¥160 million or less than the statutory share, regardless of size, a deduction eliminates all tax liability. A surviving spouse may claim a credit against his or her actual inheritance tax liability reducing that liability by a percentage equal to the greater of the amount of the statutory share in excess of ¥160 million or the value of property actually received, divided by the total value of the estate. Under age and handicapped children also receive additional credits against any tax liability.

The gift tax permits an annual allowance of ¥600,000 ($4,936). Beyond that exemption, gifts are taxed at marginal tax rates of 10 percent of the first ¥1.5 million ($12,340) of taxable gifts to 70 percent on taxable gifts in excess of ¥100 million ($822,707).

Korea

Korea imposes an inheritance tax and a gift tax. The taxes are imposed on the transfer of worldwide property for individuals domiciled in Korea. For nonresidents, the taxes apply to transfers of property located in Korea.

A surviving spouse may exempt from inheritance tax the first W3.0 billion ($2.45 million) received as an inheritance from the decedent spouse. For all others, there is a basic exemption of W200 million ($163,199). In addition, surviving children under age 20 may exempt an additional W5 million ($4,080) times the number of years under age 20 and persons who are over age 60 may exempt an additional W30 million ($24,480). Additional exclusions are provided under the inheritance tax for bequests of a family business (W100 million ($81,599)), farm property (W200 million), and for holdings of financial assets (W20 million ($16,320)).[517]

[517] For purposes of determining the value of a gift or bequest, the market value of financial assets is reduced by 20 percent, but not more than W200 million.

For gifts, W200,000 is exempt from tax annually. This exemption is increased to W30 million for gifts from lineal ascendants or descendants, and is increased to W500 million ($407,997) for gifts from a spouse. The gift tax exemptions apply to cumulative gifts received over a 10-year period.

The inheritance tax and gift tax have the same tax rate schedules. Tax is imposed at a marginal tax rate of 10 percent on the first W100 million of taxable transfers and rises to a marginal tax rate of 50 percent on taxable transfers in excess of W3.0 billion. The tax imposed on bequests to individuals two or more generations removed from the decedent is increased by 30 percent. For all inheritance tax returns, if the return is filed in a timely manner and the tax authorities deem the return to be accurate, tax liability is reduced by 10 percent.

Luxembourg

Luxembourg imposes an inheritance tax and a gift tax. The tax applies to residents, generally on all property of the deceased except for certain foreign property. For nonresidents, the tax applies only to certain immovable property in Luxembourg. The gift tax applies to all gifts of immovable property located in Luxembourg and to movable property represented by registered instruments.

Heirs in direct line of succession and spouses in the case of a marriage producing children are exempt from the inheritance tax. The first €37,184 ($36,663)[518] received by a childless spouse is exempt from inheritance tax. All other inheritances are taxable beyond a €1,239 ($1,222) exemption. However, if the decedent was a non-resident, in which case inheritance taxes generally only apply to transfer of real estate, there are no exemptions.

For taxable transfers, there are four different marginal tax rate schedules: childless spouse; siblings; aunts, uncles, nieces, nephews, adoptive parents, and adopted children; and all others. A childless spouse is taxed at a marginal tax rate of five percent on the first €9,916 ($9,777) of taxable inheritances and rising to a marginal tax rate of 16 percent on inheritances in excess of €1.735 million ($1.711 million). Inheritances of siblings are taxed at marginal tax rates beginning at six percent on the first €9,916 of taxable transfers and rising to 19.2 percent on taxable transfers in excess of €1.735 million. Inheritances of aunts and uncles, nieces, nephews, adoptive parents, and adopted children are taxed at marginal tax rates beginning at 10 percent on the first €9,916 of taxable transfers and rising to 32 percent on taxable transfers in excess of €1.735 million. Inheritance of others are taxed at marginal tax rates beginning at 15 percent on

[518] The material available to the Joint Committee staff reports exemptions and rate brackets in Luxembourg francs. However, Luxembourg has converted to the Euro. In the text exemptions and rate brackets are reported in Euros, converting by the rate established in European Union regulation number 2866/98 that establishes irrevocably fixed conversion rates between member states adopting the Euro.

the first €9,916 of taxable transfers and rising to 48 percent on taxable transfers in excess of €1.735 million.[519]

The gift tax applies at different rates on different donees. Gifts received by children of the donor are taxed at the lowest rate, 1.8 percent, while gifts to the spouse are taxed at 4.8 percent. The gift tax rate for gifts received by siblings is six percent; by aunts, uncles, nieces, and nephews, 7.2 percent; by fathers-in-law, mothers-in-law, sons-in-law, or daughters-in-law, 8.4 percent; by others, 14.4 percent.

Mexico

Mexico no longer has Federal or State taxes on inheritances, gifts, or donations. However, there is a title transfer tax of between 1.725 and 4.6 percent on transfers of real estate through inheritance, gifts, or donation. There also are stamp taxes assessed at between two and eight percent of value on gifts of real property. Gifts from persons other than direct ascendents or descendants are included in the recipient's taxable income. In addition, gifts to nonresidents of real estate located in Mexico and shares issued by Mexican companies are taxed at a flat 20-percent rate.

The Netherlands

The Netherlands imposes an inheritance tax and a gift tax. The taxes apply to all transfers made by residents and to transfers of certain Dutch property by nonresidents. If a citizen of the Netherlands dies within 10 years following his or her emigration, he or she is deemed to be a resident for purposes of the inheritance tax. In case of the gift tax, an emigrant citizen is deemed resident for purposes of the gift tax for one year following emigration. However, if the individual dies within 10 years of emigration, then he or she is deemed to have been resident for gift tax purposes throughout the period preceding his or her death.

For bequests to spouses, the first €467,848 ($461,298) are exempt from tax.[520] For bequests to children, the first €7,996 ($7,884) are exempt from tax. On inheritances received by parents of the transferor, the first €39,978 ($39,418) are exempt from tax. Bequeathed pension rights may reduce those deductions. For purposes of the gift tax, the first €3,999 ($3,943) of gifts from parents to a child are exempt annually.[521] For all others there is an exemption of €2,399 ($2,365) and gifts within a two-year period are aggregated.

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[519] If the deceased was non-resident, marginal tax rates on spouses with children range from five to 16 percent. Direct descendants are taxed at marginal tax rates of two to 6.4 percent.

[520] This exemption also is available to a surviving domestic partner, if the couple had lived together for at least five years. If the partners had lived together for less than five years, the exemption is reduced proportionately.

[521] This annual amount may be increased once in each child's lifetime for children between 18 and 35 years of age to €19,991 ($19,711).

For taxable transfers there are four different marginal tax rate schedules: spouse;[522] children and grandchildren; great-grandchildren and other descendants; siblings and lineal ascendants; and all others. For children and spouses, the rate of tax rises from five percent on the first €19,994 ($19,714) of taxable transfers to 27 percent on taxable transfers in excess of €799,554 ($788,359). For great-grandchildren and other descendants, the rates range from eight percent for the first €19,994 of taxable transfers to 43.2 percent on taxable transfers in excess of €799,554. For siblings and lineal ascendants, the rates range from 26 percent for the first €19,994 of taxable transfers to 53 percent on taxable transfers in excess of €799,554. For transfers to others, the marginal tax rates range from 41 percent for the first €19, 994 of taxable transfers to 68 percent on taxable transfers in excess of €799,554. In addition, gifts to charities in excess of €7,996 are subject to an 11 percent tax.[523]

New Zealand

New Zealand does not impose an estate tax. However, New Zealand does impose a gift tax. The gift tax applies to all transfers by persons domiciled in New Zealand and, in the case of transferors not domiciled in New Zealand, to property located in the country. A donor must aggregate all gifts made within the year for determination of the tax base. Gifts of less than NZ$2,000 ($939) per donor per donee are exempted from the tax base.

Under the gift tax, the first NZ$27,000 ($12,697) is exempt from tax. The next NZ$9,000 ($4,226) is taxed at a marginal tax rate of five percent. Marginal tax rates increase to 25 percent for transfers in excess of NZ$72,000 ($33,811).

Norway

Norway imposes an inheritance tax and a gift tax. All transfers by residents are subject to the taxes. Transfers by nonresidents of immovable property located in Norway also are subject to the taxes. If the deceased or donor was a non-resident citizen, tax is imposed as if he or she were a resident, unless he or she can establish that a similar tax was paid in the country of residence.

Interspousal transfers are exempt from tax. For transfers to all others, the first Nkr200,000 ($26,861) is exempt from tax.

There are two classes of transferees: children and parents; and all others, including charities. The first Nkr300,000 ($40,292) of taxable transfers are taxed at a marginal tax rate of eight percent for children and parents and at 10 percent for all others. For taxable transfers in excess of Nkr300,000, a marginal tax rate of 20 percent is imposed on children and parents and a marginal tax rate of 30 percent is imposed on all others.

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[522] A domestic partner with whom the deceased or donor has lived for at least five years qualifies for the rate schedule applicable to spouses.

[523] The exempt amounts and tax brackets are indexed for increases in consumer prices.

Philippines

The Philippines imposes an estate tax and a gift tax. Under the estate tax and gift tax, citizens and resident aliens are taxed on their worldwide estates or gifts from worldwide assets regardless of their residence at the time of death or gift.

The first P 1.2 million ($23,020)[524] is exempt from the estate tax. In addition, the value of the family home is not included in the taxable estate.[525] The first P 300,000 ($5,755) of the taxable estate is taxed at a rate of five percent. Marginal tax rates increase to 20 percent on taxable estates in excess of P 9.8 million ($187,995).

The first P 100,000 ($1,918) of a donor's total gifts made within a calendar year are exempt from tax. For annual gifts above the exempt amount, marginal tax rates rise from two percent on the first P 100,000 of taxable gifts to 15 percent on total taxable gifts in excess of P 9.9 million ($189,913).

Portugal

Portugal imposes an inheritance tax and a gift tax. The tax applies to both residents and nonresidents on assets situated in Portugal.[526]

Any recipient of a bequest or gift may exempt the first €374 ($369)[527] from tax. If the recipient of a bequest or gift is a spouse or child older than 18 years or other descendant, the recipient may exempt an additional €3,641 ($3,590). In the case of a bequest to a parent, an additional €1,821 ($1,796) may be exempted. No inheritance or gift tax is imposed on a transfer to a minor child.

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[524] The Bangko Sentral ng Pilipas, the central bank of the Philippines, reports the Philippines peso - U.S. dollar exchange rate on September 30, 2002 as 52.129 Philippines pesos per one U.S. dollar. Bangko Sentral ng Pilipinas, International Financial Statistics, IFS Report Form 566, November 7, 2002. Philippine currency conversion reported in the text are made at that rate.

[525] There is a P 1.0 million ($19,183) limitation to the exclusion for the family home. In addition, up to P 500,000 ($9,592) in medical expenses incurred in the year preceding death may be excluded and any amount received from the decedent's employer as a result of the death of the employee is excluded from the taxable estate.

[526] Debt is considered located in Portugal if the creditor is located in Portugal.

[527] The material available to the Joint Committee staff reports exemptions and rate brackets in Portuguese escudos. However, Portugal has converted to the Euro. In the text exemptions and rate brackets are reported in Euros, converting by the rate established in European Union regulation number 2866/98 that establishes irrevocably fixed conversion rates between member states adopting the Euro.

For taxable transfers there are four different tax rate schedules: spouse, children older than 18, and other descendants; siblings and ascendants; uncles, aunts, nephews, and nieces; and all others. For the spouse, children older than 18, and other descendants, marginal tax rates begin at three percent of the first €10,624 ($10,475) of taxable transfers and rise to 24 percent on taxable transfers in excess of €351,802 ($346,876). For siblings and ascendants, marginal tax rates begin at seven percent on the first €3,641 of taxable transfers and rise to 32 percent on taxable transfers in excess of €355,344 ($350,368). For uncles, aunts, nephews, and nieces, marginal tax rates begin at 13 percent on the first €3,641 of taxable transfers and rise to 45 percent on taxable transfers in excess of €355,344. For all others, marginal tax rates begin at 16 percent on the first €3,641 of taxable transfers and rise to 50 percent on taxable transfers in excess of €355,344.

Seychelles

Seychelles does not impose any tax on estates, inheritances, or gifts.

Singapore

Singapore imposes an estate tax, but no gift tax. The tax applies to all property in the estate of an individual domiciled in Singapore at the time of his death. Nonresident decedents are subject to the tax on any real or personal property situated in Singapore at the time of death.

The first S$500,000 ($281,373) of all property is exempt from the estate tax. In addition, the first S$9 million ($5.06 million) of residential business property, the value of the decedent's personal residence (up to S$3 million ($1.69 million)), and up to S$500,000 of the decedent's interest in the Central Provident Fund or any designated pension or provident fund is excluded from the estate. Certain other investments also are excluded from the taxable estate.

The first S$10 million ($5.63 million) of the taxable estate is taxable at a five percent rate. Amounts in excess of S$10 million are taxed 10 percent.

South Africa

South Africa imposes estate tax and a gift tax on the transfer of worldwide assets by residents. However, assets located outside of South Africa acquired prior[528] to the taxpayer becoming a resident of South Africa are exempt from the estate and gift taxes, as are bequests or gifts of property acquired by the transferor as an inheritance or gift from a person who is not a resident of South Africa.

Any bequest or gift to a spouse[529] is exempt from the estate tax. In addition, the first R1 million ($94,890) of an estate is untaxed. A tax of 20 percent is imposed on all taxable estates in

[528] Property outside South Africa acquired after the transferor became a resident of South Africa is treated as property acquired before residence if such property was acquired with funds from the sale of other property outside South Africa acquired prior to residency.

[529] Gifts to a fiancé or former spouse (under a divorce decree) are exempt from gift tax.

excess of R1 million. A donor may make annual gifts totaling R25,000 ($2,372) exempt from gift tax. Taxable gifts are taxed at a 20 percent rate.

Spain

Spain imposes an inheritance tax and a gift tax. The taxes apply to all transfers to residents and to transfers of assets located in Spain of nonresidents.

The Spanish inheritance and gift tax defines four categories of transferees; direct descendants under the age of 21; spouse, other direct descendants 21 or older, and direct ascendants; siblings, uncles, aunts, nephews, nieces, and ascendants and descendants by marriage; and all other persons. The inheritance tax provides an exempt amount for persons in the first three categories. For direct descendants under the age of 21, but greater than 13, the exempt amount is €15,956.87 ($15,733) plus €3,990.72 ($3,935) for each year under 21. For direct descendants age 13 or less, the exempt amount is €47,858.59 ($47,189).[530] For a spouse, direct descendants 21 or older, and direct ascendants, the exempt amount is €15,956.87. For siblings, uncles, aunts, nephews, nieces, and ascendants and descendants by marriage, the exempt amount is €7,993.46 ($7,882).[531]

Aside from the inheritance tax exemption amounts, there are not different tax rate schedules for different categories of heirs or donees. Marginal tax rates begin at 7.65 percent on the first €7,993.46 of taxable transfers and rise to 34 percent on taxable transfers in excess of €797,555.08 ($786,388). In addition, a net worth surcharge is applied to the transferee's tax liability that varies by category of heir and level of the heirs' wealth. The marginal rate of the surcharge can be as high as 140 percent for transferees who are distant relatives or unrelated and whose net wealth exceeds €4,020,770.98 ($3.96 million). For spouses, descendants, and ascendants, the marginal rate of the surcharge reaches 20 percent for transferees whose net wealth exceeds €4,020,770.98.

For qualifying family owned business assets, 95 percent of the value of the assets is excluded from the base of inheritance and gift taxes. To account for certain personal property if not specifically valued (e.g., household furnishings), the value of the estate is increased by three percent.

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[530] Note that the allowance for a 13-year old taxpayer does not equal €47,882.63 (15,956.87 plus eight times 3,990.72). While perhaps not intentional, the difference is part of Spanish law.

[531] The inheritance tax provides an additional exempt amount to transferees who are disabled. The first €9,195.49 ($9,067) of any life insurance payment to a spouse, direct descendant, or direct ascendant is exempt from inclusion in the inheritance tax. In addition, a spouse or direct ascendant or descendant may exclude up to €122,606.47 ($120,890) of the value of the decedent's personal residence from the base of the inheritance tax.

Sweden

Sweden imposes an inheritance tax and a gift tax. The tax applies to all property transferred by deceased Swedish citizens and resident foreigners, and to certain property left in Sweden by nonresident foreign citizens. In addition, the inheritance and gift taxes apply to a Swedish citizen, spouse of a Swedish citizen, or former Swedish resident, who has ceased to be resident in Sweden if he or she ceased being resident less than ten years prior to death (inheritance tax) or date of gift (gift tax).

There are three classes of taxpayers. Class I consists of spouses, lineal descendants, spouse of child, surviving spouse of a deceased child, step-child, adopted child or foster child, and their descendants. Class II consists of all other individual transferees. Class III consists of churches and Swedish institutions devoted to the public benefit.

A surviving spouse may exempt one-half of the decedent spouse's aggregate property from inheritance taxation. Also, an additional Skr280,000 ($30,164) of inheritance received by a spouse is exempt from tax. For other class I beneficiaries, the first Skr70,000 ($7,541) is exempt from tax. For lineal descendants under age 18, the exempt amount is increased by Skr10,000 ($1,077) for each year the beneficiary is under age 18. For bequests to class II or class III beneficiaries, the first Skr21,000 ($2,262) is exempt. Gifts are exempt up to Skr10,000 per donor per year.[532]

For class I beneficiaries, marginal tax rates begin at 10 percent on the first Skr300,000 ($32,319) of taxable transfers and rise to 30 percent on taxable transfers in excess of Skr600,000 ($64,628). For class II beneficiaries, marginal tax rates begin at 10 percent on the first Skr70,000 of taxable transfers and rise to 30 percent on taxable transfers in excess of Skr140,000 ($15,082). For class III beneficiaries, marginal tax rates begin at 10 percent of the first Skr90,000 ($9,696) of taxable transfers and rise to 30 percent on taxable transfers in excess of Skr170,000 ($18,314).

Switzerland

There is no taxation of transfers of property at death or by gift at the national level, but every canton except one imposes an estate or inheritance tax and one canton imposes both. Two cantons impose an estate tax in lieu of an inheritance tax. All cantons except two impose a gift tax. In addition, in four cantons the communes have, and exercise, the right to impose inheritance and gift taxes. Such taxes generally apply to all transfers by residents and to transfers of immovable property located in Switzerland by nonresidents.

This summary will not provide a description of the law applicable in each of the 26 cantons, but for illustrative purposes will outline the inheritance and gift taxes for three cantons: Geneva; Lucerne; and Zurich.

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[532] A higher limit applies for birthday and wedding gifts.

Geneva.–For inheritance tax purposes, the first SF5,000 ($3,371) of bequests to a spouse,[533] descendant, or ascendant is exempt from tax. For all others the first SF500 ($337) of bequests is exempt from inheritance tax. For gift tax purposes, the first SF10,000 ($6,742) of bequests to a spouse, descendant or ascendant is exempt from tax. For all others, the first SF5,000 of bequests is exempt from inheritance tax.

The marginal tax rates applicable to taxable transfers vary with the size of the transfer and the degree of kinship between the transferor and transferee. For spouses, the highest marginal tax rate is six percent if the spouses have common children and one percent if the marriage is childless. For direct descendants or ascendants, the highest marginal tax rate is six percent if the transferor and transferee are one generation removed, 7.2 percent if two generations removed, and 7.8 percent if three generations removed. For all other transfers, the highest marginal tax rate is 26 percent.[534]

Lucerne.–Lucerne imposes an inheritance tax, but does not impose a gift tax. Bequests to a spouse and to descendants are exempt from tax.[535] In addition, domestic employees may exempt SF2,000 ($1,348) from the inheritance tax. Any other beneficiary may exempt SF1,000 ($674), but only if the beneficiary's income does not exceed SF4,000 ($2,697) or have a net worth greater than SF10,000 ($6,742).

The marginal tax rates applicable to taxable transfers vary with the size of the transfer and the degree of kinship between the transferor and transferee. For bequests to parents, siblings, nephews, nieces, or domestic employees, the lowest marginal tax rate is six percent and the highest marginal tax rate is 12 percent. For bequests to grandparents, uncles, aunts, and cousins, the lowest marginal tax rate is 15 percent and the highest marginal tax rate is 30 percent. For bequests to others, the lowest marginal tax rate is 20 percent and the highest marginal tax rate is 40 percent.

Zurich.–Zurich imposes an inheritance tax and a gift tax. Transfers to a spouse and descendants are exempt from both taxes. In the case of those other than a spouse or descendant, SF5,000 ($3,371) are exempt annually from the gift tax. The inheritance tax provides certain exemptions. Parents may exempt SF200,000 ($134,884) of bequests received from a deceased child. A grandparent, sibling, stepchild, godchild, foster child, fiancée or fiancé, or domestic employee of at least 10 years employment of the deceased may exempt SF15,000 ($10,113). A domestic partner of the deceased may exempt SF50,000 ($33,710) if the couple had cohabited for at least five years. A disabled dependent of the deceased may exempt SF30,000 ($20,227).

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[533] Geneva is one of only three cantons in which a spouse is not exempt from all inheritance or gift tax.

[534] The tax rates applicable to transfers to others than a spouse or direct descendant or ascendant change annually be a multiplier determined annually by the cantonal government. The multiplier is set between one and two.

[535] Municipalities impose an inheritance tax on untaxed descendants.

The marginal tax rates applicable to taxable transfers vary with the size of the transfer and the degree of kinship between the transferor and transferee. There are six categories of taxable beneficiary: parents; grandparents and stepchildren; siblings; stepparents; uncles, aunts, descendants of siblings; and all others. The marginal tax rate applicable to the first SF30,000 of taxable transfers to parents is two percent. The marginal tax rate applicable to transfers to parents increases to six percent for taxable transfers in excess of SF1.5 million ($1.01 million).[536] The tax applicable to transferees other than parents is expressed as a multiple of the tax calculated under the schedule applicable to parents. For grandparents and stepchildren, the multiple is two. For siblings, the multiple is three. For stepparents, the multiple is four. For uncles, aunts, and descendants of siblings, the multiple is five. For all others, the multiple is six. The tax otherwise due from any transferee is reduced by 80 percent with respect to qualifying closely held business assets.

Taiwan

Taiwan imposes an estate tax and a gift tax. The estate and gift taxes are imposed on the transfer of the worldwide property of a Taiwanese national regularly domiciled in Taiwan and on transfers of property located in Taiwan in the case of other persons. An individual who was domiciled in Taiwan within two years of death or gift is deemed to be domiciled in Taiwan at the time of death or gift.

Each estate may exempt T$7.0 million ($200,757)[537] from tax. In addition, up to T$4.0 million ($114,718) of bequests to a surviving spouse may be deducted from the taxable estate, up to T$1.0 million ($28,680) of bequests to surviving parents may be deducted from the taxable estate, and up to T$400,000 ($11,472) of each bequest to a lineal descendant or a sibling may be deducted from the taxable estate. In the case of a child or sibling under age 20, an additional T$250,000 ($7,170) multiplied by the number of years the beneficiary is under age 20 of any bequest may be deducted from the taxable estate. The estate does not include the proceeds of life insurance policies. Half of the value of qualifying agricultural real estate may be excluded from the estate.[538] Marginal tax rates begin at two percent for taxable estates between zero and T$600,000 ($17,208) and rise to 60 percent on taxable estates in excess of T$160 million ($4.59 million).

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[536] The six percent marginal tax rate is the marginal tax rate applicable to the largest transfers, but is not the highest marginal tax rate. The marginal tax rate is six percent for taxable transfers greater than SF360,000 ($242,718) and less than or equal to SF840,000 ($566,343). The marginal tax rate is seven percent for taxable transfers greater than SF840,000 and less than or equal to SF1.5 million.

[537] The *Wall Street Journal* of October 1, 2002, reported the Taiwan dollar to U.S. dollar exchange rate to be 34.868 Taiwanese dollars to one U.S. dollar in trading on September 30, 2002. The Taiwanese dollar to U.S. dollar conversions in the text are made at that exchange rate.

[538] T$400,000 of "professional equipment" and T$720,000 ($20,649) of household furnishings also may be excluded from the estate.

Under the gift tax, each donor may exempt T$1.0 million of gifts annually. Gifts of qualifying agricultural real estate are exempt from the gift tax. Marginal tax rates begin at four percent for taxable gifts from zero to T$600,000 and rise to 50 percent on taxable gifts in excess of T$45 million ($1.29 million).

Turkey

Turkey imposes an inheritance tax and a gift tax. The tax applies to transfers by Turkish nationals on their worldwide property. Nonresidents are liable for tax on transfers of Turkish assets.

The first TL59 billion ($35,400)[539] of inheritances are taxed at a marginal tax rate of one percent. Marginal tax rates increase to 10 percent for that portion of an inheritance exceeding TL951 billion ($570,600).

Under the gift tax, a gift received from a parent, child,[540] or spouse is taxed at a marginal tax rate of five percent on the first TL59 billion of a gift, with marginal tax rates increasing to 15 percent for that portion of a gift exceeding TL951 billion. For all other gifts, the gift is taxed at a marginal tax rate of 10 percent on the first TL59 billion of the gift, with marginal tax rates increasing to 30 percent for that portion of a gift exceeding TL951 billion.

United Kingdom

The United Kingdom imposes an inheritance tax and a gift tax. All transfers of property by persons domiciled in the United Kingdom and transfers of property situated in the United Kingdom by persons not domiciled are subject to tax. An individual is deemed to be domiciled in the United Kingdom for inheritance and gift tax purposes if the person was domiciled in the United Kingdom at any time within the three years preceding the transfer.

Transfers to a spouse are excluded from the taxable estate for inheritance tax purposes and generally are exempt from gift tax. The first £242,000 ($378,421) is exempt from inheritance taxation. Gifts made within seven years of death are includible in the base of the inheritance tax.[541] The first £3,000 ($4,691) of annual gifts is exempt from gift taxation.[542] Beyond those exempt amounts, inheritances and gifts are taxed at a flat 40 percent tax rate.

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[539] The *Wall Street Journal* of October 1, 2002 reported the Turkish lira to U.S. dollar exchange rate to be 1,666,667 Turkish lira to one U.S. dollar in trading on September 30, 2002. The Turkish lira to U.S. dollar conversions in the text are made at that exchange rate.

[540] Gifts from an adopted child are not deemed to be a gift from a child. Gifts from an adoptive parent are treated as a gift from a parent.

[541] To reduce double taxation of gifts made within seven years of death, only a percentage of the gift is includible in the inheritance tax base. The inclusion percentage depends upon the length of time between the gift and the transferor's death. For example, 40 percent of

Inter vivos transfers to discretionary trusts are subject to the gift tax at half the normal rate (20 percent). Tax rates applied to transfers at death or by gift of agricultural property and certain industrial plant, machinery, and equipment are 50 percent of the regular rate (*i.e.*, the tax rate is 20 percent).

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the value of the gift may be excluded for gifts made between four and five years in advance of the transferor's death.

[542] If unused, the £3,000 exemption may be carried forward for one year.