Professional Advisor Group Consulting

Industry Insights:
Shakespeare & Death Taxes?

"WHAT'S IN A NAME?"

While William Shakespeare regularly defaulted on his "*lay subsidy*" obligations, which were a form of "wealth tax" and was once threatened with jail time for tax evasion, he is not the focus of this piece.

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One night on a balcony in Verona, Shakespeare's Juliet famously asks, "*What's in a name? That which we call a rose, by any other word would smell as sweet.*" Well, with all due respect to Juliet, sometimes a name makes a different, like in the case of "death taxes".

TYPES OF DEATH TAXES

The two main types (or names) for taxes arising at death are **Estate Tax** and **Inheritance Tax**. Which type of tax applies on someone's death depends on the jurisdictions[1] involved, not only as relates to the deceased but, in most cases, also the jurisdiction of the heirs and, indeed, the assets themselves. Generally speaking:

- **Estate Tax** is levied on the estate of the deceased and paid by the estate's executor/executrix.

  The United States imposes a Federal Estate Tax with a top marginal rate of 40% on just $1MM of taxable estate. In addition, 12 U.S. states impose State Estate Tax, 6 states currently impose State Inheritance tax (although Iowa's tax will be fully abolished by January 1, 2025) and 1 state (Maryland) imposes both a State Estate and State Inheritance Tax.

  South Africa imposes an Estate Duty at a rate of 20% on the first R30MM and 25% thereafter.

- **Inheritance Tax** is levied on the heir who inherits assets, and the heir is liable to pay the tax.

  Currently, Inheritance Tax, at varying rates ranging from 1% to as high as 80%, is levied in:

  ✓ Belgium
  ✓ Brazil
  ✓ Bulgaria
  ✓ Chile
  ✓ Croatia
  ✓ Denmark
  ✓ Ecuador
  ✓ Finland
  ✓ France
  ✓ Germany
  ✓ Greece
  ✓ Hungary
  ✓ Iceland
  ✓ Ireland
  ✓ Italy
  ✓ Japan
  ✓ Luxembourg
  ✓ Netherlands
  ✓ Philippines
  ✓ Poland
  ✓ South Korea
  ✓ Spain
  ✓ Switzerland*
  ✓ Taiwan
  ✓ Thailand
  ✓ Türkiye
  ✓ Vietnam

  * In Switzerland, Inheritance Tax is imposed on the Canton level not the national level.

"A ROSE, BY ANY OTHER WORD"

Ironically, or possibly fittingly based on his famous aversion to paying taxes, the Land of Shakespeare is glaringly missing above…but why, as the United Kingdom clearly doth impose a tax on death?

In the UK, the tax is called Inheritance Tax ("IHT" for short), however, it is administered as an Estate Tax like that of the U.S. and South Africa. Unlike the varying rates in the U.S. and South Africa, UK IHT is levied at a flat 40% for estates above the exemption threshold called the "nil-rate band", which has long remained only £325,000.

[1] Jurisdiction, in this context, could include citizenship, residency, domicile and/or physical location.

“By a Name, I Know Not How To Tell Thee Who I Am”

Designed by Freepik

Still there are other jurisdictions not listed who impose tax on death under a different name.

Like Romeo’s to Juliet’s, “*Art thou not Romeo, and a Montaque?*”, perhaps if Canada or Ukraine were asked “*Do you impose Estate Tax or Inheritance Tax*?”, they might also respond, “*Neither, fair maid, if either thee dislike*”.

These jurisdictions impose neither an Estate Tax nor an Inheritance Tax, but tax could still be owed as the result of death.

- In Canada, upon the death of a resident (or the death of a nonresident who owns certain Canada situated property), a **Deemed Disposition** of capital property occurs. In short, a disposition (i.e., transfer, sale) of capital property is deemed to have taken place, generally at the fair market value immediately prior to death. The resulting gain (or loss) is recognized and included in the decedent’s income for the year of death. (NOTE: This deemed disposition tax regime also applies when someone expatriates from Canada.)

- In Ukraine, the receipt of property through inheritance (or gift) is subject to **Personal Income Tax** at a flat rate of 18.0%.

“Alack, there lies more peril in thine eye”

Global Citizens are often connected to multiple jurisdictions for a host of reasons, including,

- nationality, residency, and/or domicile status;
- ownership or interest in real property, financial investments, business interests; and/or
- family members.

These connections can add exposure to multiple death tax regimes, which, without proper planning, may have unexpected adverse consequences for many reasons, including but not limited to:

- Inefficient probate or asset inventory processes;
- Disputes over jurisdiction for judgment;
- Non-recognition of trusts or other planning;
- Timing mismatch between the transfer of assets and due date of the tax bill;
- Potential for forced heirship or intestate succession challenge; and
- Non-calendar year tax periods (e.g., UK tax year is 6 April – 5 April).

We Can help

A professionally designed life insurance portfolio can be an efficient and effective solution to these issues and a poorly designed one can make matters worse. Cross-border and international life insurance planning is complicated and complicated problems require expert solutions. To learn how we can help, contact us at peter@pagconsultingllc.com or visit us at www.pagconsultingllc.com.

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