SPECIAL REPORT:
INTERNATIONAL PRACTICE

By **Barbara R. Hauser**

Death Taxes Around the World in 2013

Your "A to Zed" guide on how other countries treat inheritances

The United States seems to have settled down, at least in terms of setting an estate tax. We're likely to have the $5.25 million exemption (adjusted for inflation) for the "indefinite" future and a new top estate tax bracket rate of 40 percent.

Meanwhile, changes in the inheritance tax have occurred around the world since my last survey in 2008. (See "Death Taxes Around the World," *Trusts & Estates*, November 2008 at p. 50.) So, it's time for an update.

Some countries have abolished the tax; others are adding it; several just keep changing it. One widespread change, including in the United States, is adjusting to the evolving laws recognizing the validity of same-sex marriages and their estate tax treatment.

On a practical level, advisors will find it helpful to know where global clients should be living at the end of their lives for the best tax treatment. All, except U.S. citizens, have the flexibility to choose a new tax jurisdiction by moving there. In fact, people with fortunes are increasingly moving out of high inheritance tax countries.

A few technical notes: I'm looking only at the tax at death, referred to here as an "inheritance tax," although a number of countries do have an annual tax on net worth, which often is referred to as a "wealth tax" (and, usually, is relatively small—1 percent to 3 percent—and frequently changed). Also, in most cases, a true inheritance tax has rates that vary based on the closeness of the relationship of the recipient to the decedent. Very few countries have a true estate tax, such as that of the United States, which bases the rates only on the size of the assets held by the decedent. Also, very few countries other than the United States allow a deduction for gifts to charities as a way to reduce the inheritance tax.

Barbara R. Hauser is a global private client advisor based in Minnesota

Worldwide Survey

Here's the answer to the question: Does this country have an inheritance tax?

Argentina—No inheritance tax.

Australia—No, it was abolished in 1979.

Austria—No, as of Aug. 1, 2008, there's been no inheritance tax. This wasn't a policy choice. Instead, in 2007, the Constitutional Court of Austria held that although Austria could have an inheritance tax, the current system violated equal protection rights by using historical values for properties. The court ruled that, unless the legislature enacted new legislation, the current inheritance tax would cease to have effect at the end of July 2008.

Is this likely to change? Michael Sedlaczek, an Austrian attorney in Freshfields, Vienna, says that it's difficult to predict.[1] Discussions seem to focus more on increasing the income tax base, especially with respect to capital gains. Sedlaczek thinks it's unlikely that an inheritance tax will be reintroduced, although the general elections in September 2013 may change political inclinations. He also notes that Germany already has canceled its double-tax inheritance treaty with Austria.

Bahamas—No inheritance tax (as is the case with most so-called "tax havens" or "offshore financial centers").

Belgium—Yes, and it varies by region (rates can reach 80 percent, depending on the amount and the

closeness of the relationship). But, lifetime gifts of personal property (not real property) are taxed at a maximum of 7 percent.

Alain Verbeke, a Belgian law professor notes that gifts made more than three years prior to death are, generally, exempt from the inheritance tax. Verbeke gives a few examples: In the Flanders region, a family dwelling is exempt when left to the spouse, and all three regions (Flanders, Wallonia and Brussels) give preferential treatment to family businesses, either exempting them entirely (donation) or applying a very favorable rate (inheritance).[2]

Bermuda—Yes. Bermuda has a form of "death tax" as part of the probate process. Peter Pearman, an attorney at Conyers Dill & Pearman in Hamilton, Bermuda, explains that to apply for probate, an "affidavit of value" must be filed and a stamp duty may be applicable. The stamp duty is only payable in respect of real or personal property situated in Bermuda that's owned by the deceased at the date of death. It doesn't apply to non-Bermuda area currency (for example, U.S. dollars, pounds sterling or euros), interests in Bermuda-exempted companies or partnerships or interests in foreign entities or assets located outside of Bermuda. Bermudians may apply to have one residence designated as a "primary homestead," and that residence will be excluded from the gross Bermuda estate. Gifts or bequests to spouses and registered Bermuda charities are also excluded from the gross Bermuda estate. The stamp duty is payable from and out of the estate, and the heirs aren't personally liable. The rate of stamp duty is calculated on a sliding scale with the current maximum rate of 20 percent for that part of the Bermuda estate that's over $2 million.

Brazil—Yes, depending on the state. São Paulo, for example, has a 4 percent inheritance tax. The maximum tax rate is 8 percent.

Canada—No inheritance tax, but when the inheritance tax was abolished on a federal basis in 1972, and thereafter by each province (until the final one (Quebec) in 1986), it was replaced by a capital gains tax imposed at death. This system was considered by Finance officials to be more effective than a U.S.-style estate tax. Martin Rochwerg of Miller Thomson in Toronto notes that certain registered tax plans in which a decedent participated during his lifetime may also result in a deemed income inclusion to the decedent on his death.[3] In addition, most provinces levy probate fees or estate administration taxes, payable at the time a decedent's will is submitted to the court for probate. In certain provinces, these fees operate similarly to wealth taxes, with the total payable being equal to a (generally low) rate, multiplied by the total fair market value of the decedent's assets at the time of his death, for which a grant of probate is required.

In Canada, individual tax rates differ by income level and province of residence.

Rochwerg notes that federal revenue loss was considerable in the years following the repeal of the inheritance tax, which delayed the subsequent provincial repeals. Nonetheless, the capital gains tax rate is the same today as it was in 1972. He explains:

> One-half of a capital gain is presently included in income for tax purposes, although the proportion has been as high as three-quarters at times during the intervening years.[4]

Individual tax rates differ by income level and province of residence. A decedent's total tax and probate exposure at death will, therefore, depend on a number of factors, including his registered tax plan balances, the increase in personally held capital assets and other

income during the year in question.

Chile—Yes, with rates up to 35 percent (depending on the degree of relationship).

China—Not yet. Yongjun Peter Ni, of the Zhong Lun law firm in Shanghai, comments that China has considered enacting an estate tax, but it's not a priority for the Chinese government because: (1) the private wealth accumulation only started about 25 years ago, so the number of high-net-worth individuals is quite limited; (2) China doesn't have a nationwide system to accurately track the assets of an individual, which makes the administration and collection of an inheritance tax very difficult; and (3) from a tax revenue perspective, China still heavily relies on turn-over taxes such as a value added tax and consumption tax.[5] Individual income tax revenue is quite small and accounts for only 6 percent of the total tax revenue of China currently.[6] So, even if an inheritance tax were introduced, the main purpose would be to help address concerns about the dramatic gap between the rich and the poor. It sounds like an inheritance tax isn't likely to be introduced within the next five years. Interestingly, China enacted an inheritance tax in 1950, but never enforced it.

Israeli Parliament doesn't intend to re-introduce an inheritance tax.

Colombia—No inheritance tax. However, as Sergio Azuero, attorney with the Rodriguez Azuero firm in Bogota, notes:

> Even though in Colombia there's not a so called inheritance tax, estates are levied with capital gains tax of 10 percent. This burden is calculated over the fiscal cost or tax base (carryover of tax bases) that the deceased had on his/her tax return. There are some thresholds over the inherited estate (depending on the type of assets inherited) that are exempted, in our case of capital gains tax.[7]

Costa Rica—No inheritance tax.

Denmark—Yes. The rate is, generally, 15 percent of the value of the estate. All people other than the immediate family and certain other people with a closer defined relationship with the deceased pay a supplementary 25 percent tax.

Exemptions include:

- transfers to the spouse and certain close relatives;
- estates with a value below 255,400 krone;
- rates for pensions to children and stepchildren under 24 years of age; and
- transfers to property and beneficiary trusts.[8]

Finland—Yes, and in 2013, there's a new "temporary" amendment in the inheritance tax. According to the amendment, a new tax scale is applicable on inheritance and gifts exceeding €1 million. Janne Juusela, in an article in *International Tax Review,* explained that the tax on the excess amount is subject to a 19 percent rate in the first tax bracket and a 35 percent rate in the second. The new tax scale will only be in force for two years, although he notes that the government's temporary measures have a tendency to become permanent.[9]

He comments that the amendment is part of the government program to strengthen the state's economy and narrow the gap between different income levels.[10] Experts in the field of inheritance have criticized the proposal for the negative effect it might have on successions. In accordance with the Legal Affairs Committee, the new tax scale will only apply when the amount of the inheritance or gift exceeds €2.5 million.

France—Yes, with rates from 5 percent up to 45 percent. Since Aug. 22, 2007, there's been no inheritance tax on transfers to spouses, which include partners of a registered partnership and, as of 2013, same-sex married couples. Parisian notaire Caroline Deneuville notes that if gifts to children are made (and registered) more than 15 years prior to death, there's no inheritance tax on those amounts. (Previously, the period was six years.)[11]

Germany—Yes, with rates up to 50 percent. It seems a bit complicated. German attorney Christian von Oertzen, of the Flick Gocke Schaumburg firm in Frankfurt am

Main, explains that worldwide taxation on the estate applies if either the decedent or the beneficiary resided in Germany. If both aren't treated as resident or deemed resident (for example, German citizens residing less than five years abroad), the taxes are only imposed on certain domestic assets situated in Germany. He notes that, currently, the transfer tax system is undergoing a time of uncertainty due to a federal constitutional court proceeding questioning the current very generous tax allowances for active businesses and corporations. He predicts that next year, the transfer tax system will undergo a substantial reform. Nevertheless, it's almost certain that Germany won't abolish the transfer tax system.[12]

Greece—Almost none; as of January 2008, Greece reduced the maximum rate to 1 percent.

Guernsey—No inheritance tax. However, to obtain probate, there's a charge of 0.35 percent on the gross value of the personal estate (excluding Guernsey realty) over £80,000, with a sliding scale on values below £80,000.[13]

Hong Kong—No more. Hong Kong used to levy "estate duty" on the value of a deceased's property situated in Hong Kong, according to a sliding scale of rates. Non-Hong Kong situated property was exempt from estate duty. As noted by Philip Munro of Withersworldwide in Singapore, the Revenue (Abolition of Estate Duty) Ordinance 2005 came into effect on Feb. 11, 2006 and, effectively, abolished estate duty for deaths occurring on or after that date.[14]

Iceland—Yes, with a maximum rate of 5 percent.

India—No, the inheritance tax was abolished in 1985.

Ireland—Yes, with rates up to 33 percent. Referred to as an integrated "capital acquisitions tax" (CAT), it applies to gifts and inheritances. Amounts to spouses are exempt. The tax-free amount for a child is €225,000, with any excess taxed at 33 percent.

Paraic Madigan of the Matheson firm in Dublin notes that since December 1999, the liability for the tax depends on the Irish tax residence status of either the donor or the beneficiary. The prior rule was that only the domicile of the decedent mattered. Reduced CAT rates apply to qualifying business, agricultural and residential property.[15]

An unusual feature of the Dutch tax is that it applies to a Dutch national who moves away, but dies within 10 years.

Israel—No; the inheritance tax was abolished in 1981. Alon Kaplan of Alon Kaplan International law firm in Tel Aviv, reports that there were suggestions to reintroduce it in 2002, but the Israeli Parliament didn't accept them.[16] There was, though, a change in the gift tax in 2003, says Kaplan:

> From then on, complete exemption from a gift tax is allowed only for family member recipients who reside in Israel and for cash gifts only.[17]

He adds that the Israeli Parliament doesn't intend to re-introduce an inheritance tax. An opposition Parliament member suggested such a draft bill two years ago. It's still hanging around. The recent major legislation (July 2013) for increasing the burden of taxation didn't revisit the discussion on this suggested estate tax bill. The gift tax has remained untouched.[18]

Italy—Yes, then no, and yes again. The inheritance taxes that were abolished were put back into effect in January 2007, although the current maximum rate is only 8 percent. Carlo Dalla Vedova of Dalla Vedova Studio in Rome and Milan summarizes the current law:

> A spouse and each child and ascendant can receive €1 million before there's a tax, which is 4 percent on the excess; each sibling can receive €100,000 with a 6 percent tax on the excess; any beneficiary with a disability can receive €1.5 million before there's a tax, which is then 6 percent tax on the excess; and any others are taxed at 8 percent.[19]

For property, taxation is based on the "valore catastale" (that is, the local land registration records), and not the "market value," which is usually higher. This makes Italy interesting for investing in the real estate market.

Japan—Yes. According to Hitomi Sakai of the Kojima Law Offices in Tokyo, to close the difference between the rich and the poor and maintain the equality of wealth in the economy, there's been a recent movement to increase the inheritance tax and reduce the tax deduction. A revision to the inheritance tax in Japan was scheduled for April 2011. However, it was delayed because of the Japan Great Earthquake on March 11, 2011. In March 2013, an important amendment to the Japanese inheritance law was enacted. Under current law, only 4 percent of heirs are obliged to pay Japanese inheritance tax, but due to this tax reform, it's anticipated that more than 6 percent of heirs will need to pay Japanese inheritance tax.[20]

The outline of the reforms that have significant impact on the inheritance and gift taxes are:

1. **Reduction of basic deduction of inheritance tax.** Currently, an exemption of the first ¥50 million plus ¥10 million per statutory heir is available as the basic deduction. But, the amendment will reduce the basic deduction to ¥30 million plus ¥6 million per statutory heir.

2. **Increase of tax rates of inheritance and gift tax.** The top rates of inheritance and gift tax will increase from 50 percent to 55 percent. The taxable amounts for the tax rates are also changed.

The above amendments will take effect on Jan. 1, 2017. (For more information on Japanese inheritance law, see "Navigating United States–Japan Estate Planning," in this issue, p. 65.)

Liechtenstein—No more. It had both an estate and an inheritance tax. The estate tax had rates up to 5 percent. The inheritance tax had rates up to 27 percent. Both were abolished on Jan. 1, 2011.

Luxembourg—Yes, with rates up to 15 percent. But, inheritances by direct descendants and ascendants are exempt from the tax. Also exempt is the inheritance of a spouse if he had common children with the deceased.

Mexico—No, the federal inheritance tax was abolished in 1962. But, notario Francisco Fernandez Cueto adds that when real estate is inherited, the 32 states (and one federal district) collect a transfer of real property tax, whose rates vary by jurisdiction, up to 4.5 percent.[21] Also, there's a federal income tax of 25 percent when a foreign national inherits real property in Mexico; for a Mexican heir, the tax, which can reach 28 percent, isn't imposed until there's a subsequent sale (when carryover basis applies). A recent initiative is proposing a rate increase to 32 percent on this federal tax, as of Jan. 1, 2014.

Monaco—Yes, with rates up to 16 percent.

Netherlands—Yes, with a maximum rate of 20 percent (10 percent for acquisitions up to approximately €118,000) for spouses and children. The rates for descendants in the second and further degree are multiplied by 1.8. Acquisitions by other persons are taxed at a maximum rate of 40 percent (30 percent for acquisitions up to approximately €118,000).

Civil law notary Pieter van Onzenoort of the Greenille Firm in Rotterdam adds that the inheritance and gift tax have been substantially reformed in 2010.[22] Subject to strict conditions, only 17 percent of the value of family businesses is taxed. The assets of discretionary trusts and trust-like entities are attributed to the settlor during his life, and on his death, his heirs are deemed to acquire the trust assets and have to pay inheritance tax thereon. As of 2010, the Netherlands no longer taxes a non-resident's immovable property that's situated in the Netherlands. Inheritance tax is only levied if the deceased was a resident of the Netherlands at his death. An unusual feature of the Dutch tax is that it applies to a Dutch national who moves away, but dies within 10 years.

New Zealand—No inheritance tax.

Norway—Yes, with a maximum rate of 15 percent.

Portugal—No, it was abolished in 2004 for close relatives. Other at-death transfers are charged a "stamp duty" of 10 percent.

Russia—No, it was abolished as of Jan. 1, 2006.

The prior inheritance tax rates ranged from 5 percent to 40 percent. In a 2005 statement supporting the repeal, then-President Vladimir Putin said:

> I think it would be a good decision to abolish the inheritance tax, because billion-dollar fortunes are all hidden away in off-shore zones anyway and are not handed down here. Meanwhile, people have to pay sums they often cannot even afford here just for some little garden shack.[23]

An article in September 2008 in the London newspaper, *The Telegraph*, led with: "For the first time in Russia's history, over 100 youngsters stand to inherit more than $1 billion from the country's burgeoning ranks of oligarchs."

Qatar—No inheritance tax.

Saudi Arabia—No inheritance tax.

Singapore—No, it was abolished in February 2008. (Prior to that, the top rate had been 10 percent.)

Spain—Yes, Spain levies an inheritance tax on Spanish resident heirs on their worldwide inheritance and to non-Spanish resident heirs on their acquisitions of Spanish situs assets by reason of inheritance. The tax rate is determined by reference to the heir's kinship with the deceased, the pre-existent wealth of the recipient and the value

of the assets acquired. Transfers with a value in excess of €800,000 to a spouse and descendants with pre-existent wealth below €400,000 are subject to a 34 percent tax. As Patricia García Mediero, international private wealth partner at the firm Avantia Asesoramiento Fiscal y Legal in Madrid, explains:

> Tax planning tools include the application of Business Property relief providing a 95 percent value reduction on businesses and family shareholdings in operating companies, as well as other value minimization strategies.[24]

This is a tax that the Spanish state has transferred over to the regions in certain situations—but the state, and not the regional rules, will always apply when the deceased and/or the heir is a non-Spanish resident.

In the United Kingdom, the inheritance tax affects only one estate in 45.

Taxpayers who are eligible to apply certain regional laws will benefit from family exemptions, near-exemptions or generous reductions in their inheritance tax liability (most notably Madrid, Catalonia and the Balearics), but this trend is likely to backtrack in the future, given the state of Spanish public finances. Because of the complexity of the rules and legislative interactions involved in cross-border estates, situations must be assessed individually.

The rule that beneficial regional reliefs for close family transfers may not be applied if either the deceased or the heir is a non-Spanish resident is currently being challenged on the basis of unacceptable discrimination and a breach of European Union rules at the European Court of Justice (C-127/12). Taxpayers potentially affected by the outcome should consider how best to preserve their tax refund rights in the likely scenario that the court rules against Spain.

Sweden—No, the inheritance tax was abolished effective January 2005. In a fascinating 2007 study by Professor Henry Ohlsson in the Economics Department of the University of Uppsala, he found:

> Gifts, inheritances, and estates were never important sources of tax revenue. Such revenue as a share of GDP reached a peak already in the 1930s. These taxes became symbols for the ideological tension between the political left and the political right. Arguments about equity and equality of opportunity stood against property rights arguments.[25]

Switzerland—Yes. Inheritance and gift taxes are levied by the individual 26 cantons (not on a national basis). The canton of Schwyz, for example, has no gift or inheritance taxes, and in other cantons, bequests between spouses and registered partners are exempt. In most cantons, bequests to direct descendants are also exempt. Otherwise, inheritance tax rates vary between 0 percent and 60 percent.

Richard Pease of Lenz & Staehelin in Geneva notes that a nationwide referendum will be held in 2014 proposing the introduction of a federal inheritance tax that will replace cantonal inheritance taxes. The rate will be 20 percent on estates over CHF (Swiss franc) 2 million, and bequests between spouses and between registered partners (but not bequests to direct descendants) will be exempt. If the referendum is successful, the new inheritance tax will probably take effect in 2016, but gifts exceeding CHF 20,000 per year made since Jan. 1, 2012 will be brought into account retroactively.[26]

Taiwan—Yes, and it had rates up to 50 percent, but this was reduced to 10 percent in 2009. As reported at the time:

> At present, inheritance and gift taxes are levied at rates of up to 50%, which has prompted many wealthy Taiwanese to shift their money offshore, particularly to low-tax Hong Kong and Singapore. To address this, the Ministry of Finance has proposed the introduction of a uniform tax rate of 10%. In addition, the inheritance tax exemption will be increased to NTD12m [New Taiwan Dollar] (USD370,000) from the current NT7.8m,

while the gift tax exemption will be raised to NTD2.2m from NTD1.1m.[27]

According to Al Chang, an international tax partner with Deloitte in Taipei, the estate tax applies to worldwide assets if someone is domiciled in Taiwan. If an individual is merely a resident, the worldwide estate tax will apply if he resided in Taiwan for more than 365 days during the preceding two years.[28]

United Arab Emirates—No inheritance tax.

United Kingdom (England, Wales, Scotland and Northern Ireland)**—**Yes. The inheritance tax affects only one estate in 45, says Martyn Gowar of McDermott Will & Emery UK in London, making the point that it's irrelevant. But, he acknowledges that the yield has increased somewhat in the last couple of years. The inheritance tax generates about the same as half a pence of income tax generates. The nil rate band is now £325,000 (that is, no tax below that amount), but that figure isn't rising for inflation, and the United Kingdom has committed to leaving the figure untouched until 2017. He concludes that the government won't touch it this side of the election, which will take place no later than May 2015.[29]

Venezuela—Yes. Inheritance taxes are imposed on the transmission of property to beneficiaries domiciled in Venezuela or to non-residents with respect to property located in Venezuela. Each taxable beneficiary must compute and pay tax on his inheritance or gift. Rates vary from 1 percent to 55 percent, depending on the amount of the inheritance or gift and on the degree of family relationship to the decedent or donor.[30]

Zimbabwe—Yes, but in 2008, the top rate was reduced from 20 percent to 5 percent. It applies to worldwide assets for an individual who was ordinarily a resident in Zimbabwe and to local assets for an individual who wasn't. The exclusion is $50,000 (and the family home is excluded).[31]

So, that leaves clients with a serious planning question: to move or not to move? And, on a policy level, U.S. lawmakers may have quit asking, for now, to tax or not to tax?

Endnotes

1. Email from Michael Sedlaczek to Barbara R. Hauser on Sept. 5, 2013.
2. Email from Alain Verbeke to Barbara R. Hauser on Sept. 12, 2013.
3. Email from Martin Rochwerg to Barbara R. Hauser on Sept. 27, 2013.
4. *Ibid.*
5. Email from Yongjun Peter Ni to Barbara R. Hauser on Sept. 17, 2013.
6. *Ibid.*
7. Email from Sergio Azuero to Barbara R. Hauser on Sept. 27, 2013.
8. Confederation Fiscale Europeenne.
9. Janne Juusela, "Finland: Finnish Tax Reform 2012," *International Tax Review* (Feb. 1, 2012), *www.internationaltaxreview.com/Article/2967309/Finland-Finnish-tax-reform-2012.html*.
10. *Ibid.*
11. Emails from Caroline Deneuville to Barbara R. Hauser on Sept. 1 and Sept. 5, 2013.
12. Email from Christian von Oertzen to Barbara R. Hauser on Sept. 9, 2013.
13. Email from Konrad Friedlaender, Carey Olsen law firm, Guernsey to Barbara R. Hauser on Oct. 7, 2013.
14. Email from Philip Munro to Barbara R. Hauser on Sept. 16, 2013.
15. Email from Paraic Madigan to Barbara R. Hauser on Sept. 30, 2013.
16. Email from Alon Kaplan to Barbara R. Hauser on Sept. 5, 2013.
17. *Ibid.*
18. *Ibid.*
19. Email from Carlo Dalla Vedova to Barbara R. Hauser on Sept. 5, 2013.
20. Email from Hitomi Sakai to Barbara R. Hauser on Sept. 20, 2013.
21. Email from Francisco Fernandez Cueto to Barbara R. Hauser on Sept. 20, 2013.
22. Email from Pieter van Onzenoort to Barbara R. Hauser on Sept. 18, 2013.
23. "Annual Address to the Federal Assembly of the Russian Federation" (April 2005), *http://archive.kremlin.ru/eng/speeches/2005/04/25/2031_type70029type82912_87086.shtml*.
24. Email from Patricia García Mediero to Barbara R. Hauser on Sept, 26, 2013.
25. *http://ucfs.nek.uu.se/digitalAssets/129/129492_wp200913.pdf*.
26. Email from Richard Pease to Barbara R. Hauser on Sept. 9, 2013.
27. Mary Swire, *Tax-News.com*, Hong Kong, (Jan. 12, 2009), *www.tax-news.com/news/Inheritance_Tax_Cut_Gets_Approval_In_Taiwan_34532.html*.
28. Deloitte, *www.deloitte.com/assets/Dcom-Global/Local%20Assets/Documents/Tax/Taxation%20and%20Investment%20Guides/2013/dttl_tax_highlight_2013_Taiwan.pdf*.
29. Email from Martyn Gowar to Barbara R. Hauser on Sept. 6, 2013.
30. KPMG, *www.kpmg.com/Global/en/IssuesAndInsights?ArticlesPublications/thinking-beyond-borders/documents/venezuela.pdf*.
31. Deloitte, *www.deloitte.com/assets/DcomGlobal/Local%20Assets/Documents/Tax/Taxation%20and%20Investments%20Guides/2013/dttl_tax_highlight_2013_Zimbabwe.pdf*.