

FOREWORD

Germany is the fourth largest economy in the world, following the United States, China, and Japan. Not only leading multinational companies have their registered offices in Germany, but also a large number of rather unknown world market leaders—so-called “hidden champions,” which are often organized as family businesses. The latter are the backbone of the German economy and have been positioning themselves more and more internationally in the last two decades.

The internationalization of companies and the resulting worldwide mobility of their shareholders/partners, as well as managing directors, have led to binational marriages or dual citizenships, which have rather become the rule than an exception. Therefore, the assets are often spread over a multitude of jurisdictions due to the extensive mobility of capital.

However, as an attractive business location and with its high standard of living, Germany also attracts a large number of companies and wealthy people. This often results in German inheritance and gift tax consequences: on the one hand through the residence or habitual abode, and on the other hand through domestic (German) assets.

Based on these developments, increasing demands have been placed on legal professions in recent years: International gifts and events of succession require a cross-border collaboration of the respective advisors of the client in order to jointly ensure optimal estate planning and administration of estates. Otherwise, double taxation is likely to occur or, in the worst case, legally not realizable succession concepts, due to a lack of incompatibility of the jurisdictions involved. Moreover, the exchange of information and thus the knowledge of the tax authorities on an international level is further proceeding, as the introduction of the Common Reporting Standards (CRS) in multiple countries since January 1, 2017, impressively demonstrated.

From the perspective of international succession advice, it is therefore indispensable to develop at least a basic understanding of the respective “foreign” legal (tax) system in order to be able to jointly implement an optimal (tax) succession plan. However, in practice, it is often observable that advisors frequently lack direct access to according information and that language barriers also exist.

Following this basic idea, the present compact commentary was created. As a novelty in English literature, it comprises all legal texts of the German Inheritance and Gift Tax Act, including a practical concise commentary. Furthermore, the relevant valuation regulations for the Inheritance and Gift Tax Act are presented, and important points of reference for the civil and income tax law are indicated. A variety of practical advice and instructions regarding tax planning complete this commentary.

For reasons of clarity, the organization of the commentary is based on the Inheritance and Gift Tax Act: Regulations regarding tax liability are part of §§ 1–9 (part 1); the valuation is found in §§ 10–13d (part 2); before the calculation of the tax is presented in part 3 (§§ 14–19a). Tax assessment and collection (part 4) are included in §§ 20–35. The last part comprises authorization provisions and final provisions (§§ 36–39).

The commentary already takes into account the recent changes to the Inheritance and Gift Tax Act of November 9, 2016, after the German Federal Constitutional Court declared much of the previous inheritance tax privileges for business assets as unconstitutional on December 17, 2014.

The author would be pleased to receive suggestions regarding content and form, which can be taken into consideration for future editions, at info@german-inheritance-tax.com.