

Fair Taxation of Inheritance?

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ABSTRACT

Purpose: The purpose of this article is to clarify the meaning and character of inheritance tax from a legal perspective. It is necessary to identify its role within the tax system and explore its connections to other taxes. Such an approach is the only way to substantiate arguments in favour of retaining inheritance tax. For the purposes of this paper, we assume that most countries in the European Union continue to levy inheritance tax, which must therefore be justified. A small number of states, on the other hand, have abolished this tax. The hypothesis we aim to confirm or disprove is that inheritance tax is a traditional levy firmly embedded within the tax systems of individual countries.

Design/Methodology/Approach: To achieve the aims of the paper, we follow the IMRaD methodology. Within the research section, it is necessary to characterise inheritance tax, identify its place within the tax system, and analyse the reasons behind its abolition in some jurisdictions. The research also includes an analytical-comparative component devoted to examining the individual structural elements of inheritance tax. This detailed analysis enables us to formulate a set of questions concerning the optimal and fair legal construction of the basic structural components of inheritance tax, which are addressed in the discussion section of the article. In the concluding section, we primarily determine whether the arguments for retaining or abolishing inheritance tax are more persuasive.

Findings: The hypothesis that inheritance tax is a traditional levy firmly embedded within the tax systems of individual countries is confirmed. Nevertheless, the decision to impose inheritance tax remains a purely political one. As is evident from the design of its structural components, the law and legal regulation can ensure that inheritance tax is implemented in a fair manner.

Academic Contribution to the Field: The research, which focuses on the fairness of inheritance tax from a legal perspective, is novel. Given that the decision to levy inheritance tax lies with political authorities, this paper offers options for designing the individual structural components of inheritance tax in consideration of other forms of taxation.

Research Implications/Limitations: This paper does not examine the fairness of taxation from political, sociological, or psychological perspectives. It does not consider the possibility that populism may serve as a strategic approach for introducing or abolishing inheritance tax. Furthermore, the research does not address the economic efficiency of inheritance taxation.

Originality/Value: The topic is highly original, as it addresses the legal regulation of inheritance taxation and the design of its individual structural components. The approach is applicable in all countries worldwide, regardless of whether they currently levy inheritance tax. It contributes to the discourse on inheritance taxation from a legal standpoint.

Keywords: inheritance tax, estate tax, gift tax, structural component of tax

Pošteno obdavčenje dediščine?

POVZETEK

Namen: namen članka je razjasniti pomen in naravo davka na dediščino z vidika prava. Njegovo vlogo je treba opredeliti v davčnem sistemu ter raziskati povezave z drugimi davki. Tak pristop je edini način, da utemeljimo argumente v korist ohranitvi davka na dediščino. V članku predpostavljamo, da večina držav v Evropski uniji še vedno ima davek na dediščino, zato ga je treba utemeljiti. Manjše število držav je ta davek odpravilo. Hipoteza, ki jo želimo potrditi ali ovreči, je, da je davek na dediščino tradicionalna dajatev, trdno umeščena v davčne sisteme posameznih držav.

Načrt/metodologija/pristop: za dosego ciljev prispevka sledimo metodologiji IMRaD. V raziskovalnem delu je treba opredeliti davek na dediščino, določiti njegov položaj v davčnem sistemu in analizirati razloge za njegovo odpravo v nekaterih jurisdikcijah. Raziskava vključuje tudi analitično-primerjalno komponento, namenjeno preučevanju posameznih strukturnih elementov davka na dediščino. Ta podrobna analiza nam omogoča oblikovati nabor vprašanj o optimalni in pravični pravni zasnovi osnovnih strukturnih sestavin davka na dediščino, na katera odgovarjamo v razpravljalnem delu članka. V sklepnem delu predvsem ugotovimo, ali so prepričljivejši argumenti za ohranitev ali za odpravo davka na dediščino.

Ugotovitve: hipoteza, da je davek na dediščino tradicionalna dajatev, trdno umeščena v davčne sisteme posameznih držav, je potrjena. Kljub temu odločitve o uvedbi tega davka ostaja izključno politična. Kot je razvidno iz zasnove njegovih strukturnih sestavin, lahko pravo in pravno ureditev zagotovita, da se davek na dediščino pobira na pravičen način.

Akademski prispevek k področju: raziskava, ki se osredotoča na pravičnost davka na dediščino s pravnega vidika, je novost. Ker je odločitev o uvedbi davka na dediščino v domeni političnih organov, članek ponuja možnosti za oblikovanje posameznih strukturnih sestavin tega davka ob upoštevanju drugih oblik obdavčitve.

Raziskovalne implikacije/omejitve: članek ne obravnava pravičnosti obdavčitve s političnega, sociološkega ali psihološkega vidika. Ne upošteva možnosti, da bi populizem lahko služil kot strateški pristop k uvedbi ali odpravi davka na dediščino. Poleg tega raziskava ne obravnava ekonomske učinkovitosti obdavčitve dediščine.

Izvirnost/vrednost: tema je zelo izvirna, saj obravnava pravno ureditev obdavčitve dediščine in zasnovo njenih posameznih strukturnih sestavin. Pristop je uporaben v vseh državah po svetu, ne glede na to, ali trenutno imajo davek na dediščino ali ne. Prispeva k razpravi o obdavčitvi dediščine z vidika prava.

Ključne besede: davek na dediščino, davek na zapuščino, davek na darila, strukturna sestavina davka

JEL: K34, K40

1 Introduction

The discussion about the fairness of taxation is never-ending. The reason is hidden in the fact that every person has a different perception of taxes: some people still believe that taxes are legal theft, while others pay taxes as they feel it is not only a legal obligation but also an ethical issue. Most of the population stays somewhere between these two poles. They are ready to pay taxes if they feel they are fair and they get adequate service from the state and/or local self-government units.

Fair taxation is not only connected to the absolute amount of every single tax being paid in every single tax period. The perception of tax fairness is primarily strongly connected to the mixture of taxes that taxpayers have to pay. In other words, it is not easy to explain why the recurrent property should be collected if the tax is paid from the net income after the taxation (by income taxes); many people see property tax as a second taxation of their income. The inheritance tax is then viewed even more negatively: the heir receives the property acquired by the deceased, obtained from income already taxed once. This problem comes to the fore, especially in the case of family property inherited from close relatives.

The purpose of this article is then to clarify the meaning and the character of inheritance tax from the legal point of view. It is necessary to identify its role in the tax system and find connections to other taxes. Such an approach is the only way to defend the arguments for retaining the inheritance tax. For the purpose of this paper, we really assume that most countries in the European Union still levy the inheritance tax, which must be justified. A small number of states, on the other hand, abolished this tax. The hypothesis we will confirm or disprove is that the inheritance tax is a traditional tax firmly anchored in the tax systems of individual countries.

To reach the aims of the paper, we follow the IMRaD methodology. Within the research part, it is necessary to characterize the inheritance tax and to

define its sub-categories. It is also needed to identify the place of inheritance tax in the tax system (tax mix) and to point out the connections between the inheritance tax and other taxes, mainly income taxes (such as personal income tax and corporate income tax) and other property taxes (gift tax, property transfer tax, taxes on acquisition of property, general wealth tax, and recurrent property tax). Later, we will analyse the reasons for abolishing the inheritance tax in countries where such a tax was abolished in recent decades. The Research must also include an analytical-comparative part devoted to individual structural components of the inheritance tax. The detailed analysis, in combination with the partial comparison between the European States, will allow us to create a set of questions asking for the optimal and fair legal construction of basic structural components of the inheritance tax, such as the person of taxpayer, the tax base construction, the type of tax rate/rates, the corrective elements, the tax administration and collection. These questions are to be answered in the discussion part of the article. Special attention will be paid to the relations between the inheritance tax and other taxes with regard to fairness in taxation and efficient tax administration. In the concluding section, we then synthesize the knowledge gained, summarize the results, and determine whether the arguments for retaining or abolishing the inheritance tax prevail.

Unfortunately, the current legal literature focusing on inheritance tax is limited. Even “the Bible” of the tax law – *Thuronyi’s Tax Law Design and Drafting* (Thuronyi, 1996) – does not include a specific chapter dealing with the inheritance tax. The inheritance tax is only mentioned in the chapter on the taxation of wealth (Rudnick and Gordon, 1996). The same applies to the chapter on wealth taxation by *Boadway, Chamberlain and Emmerson* (2010) or the wealth taxation study by *OECD* (2018). A legal regulation of the inheritance tax in OECD countries is analysed in the *OECD’s Tax Policy Studies – Inheritance Taxation in OECD Countries* (OECD, 2021). The inheritance tax was also studied in the general report and national reports of the *EATLP 2025 congress* (EATLP, 2025). From the economic, social, and political points of view, the number of scientific publications is much higher. They are focusing on intergenerational wealth mobility (Adermon, Lindahl and Waldenström, 2018; Bastani and Waldenström, 2021; Brunetti, 2006; Kopczuk, 2013; Wolff and Gittleman, 2014), effects of inheritance taxation on business (Burman, McClelland and Lu, 2018; Tsoutsoura, 2015), or the conflict between gift tax and inheritance tax (Bernheim, Lemke and Scholz, 2004; Joulfaian, 2004; Joulfaian, 2005; Poterba, 2001). Some papers are more general, i.e., Kopczuk (2009), some discuss specific issues in detail. E.g., Elinder, Erixson and Ohlsson (2012) examined the impact of inheritances on heirs’ labor and capital income, while Farhi and Werning (2010) offer progressive estate taxation.

2 Research

2.1 Inheritance Tax Characteristics

Inheritance tax, along with the closely related gift tax and property transfer tax/tax on the acquisition of property, constitutes a traditional category of (property) transfer taxes that has historically played a significant role in the tax systems of many countries. These taxes are linked to a change in ownership and are levied on a new owner's acquisition, transfer, or succession of property.

Systematically, the inheritance tax and the gift tax belong to the group of taxes on capital transfers. When assessing these taxes, it is essential to distinguish whether the transfer of ownership occurs during the owner's lifetime or upon their death. Inheritance tax applies when an heir acquires both movable and immovable property from a deceased owner (*mortis causa*). Inheritance involves the acquisition of property without consideration, thereby increasing the total wealth of the heir. In contrast, gift tax applies to gratuitous transfers of property between living individuals (*inter vivos*). Gift tax is levied not only on donations based on gift contracts but also on other gratuitous acquisitions of property resulting from legal acts. These may include, for example, debt forgiveness or the gratuitous assignment of a claim (Radvan, 2025).

A common feature of both inheritance and gift taxes is that they are imposed on gratuitous acquisitions of property and are classified as irregular taxes, since they are not collected on a regular periodic basis but only when a transfer occurs (Sobotovičová and Janoušková, 2018, 11).

Due to the close relationship between these taxes, they are often governed by a single legislative framework. Common rules typically apply to aspects such as valuation methods and the determination of tax exemptions. In some jurisdictions, property donated within a specific period before the deceased's death is included in the inheritance tax base (three years before death in Japan, or seven years in the United Kingdom) to ensure tax fairness, particularly in systems employing progressive tax rates.

Another example of the interrelation between these taxes involves generation-skipping. The generation-skipping generally means lower rates for close relatives and higher rates for distant relatives and unrelated persons (Adermon, Lindahl and Waldenström, 2018; Bastani and Waldenström, 2021; Brunetti, 2006; Kopczuk, 2013; Wolff and Gittleman, 2014). However, the generation-skipping principle can also be reflected in situations when a person inherits property and subsequently gifts it to their descendant within a certain period. In that case, the amount of gift tax may be reduced by the amount of inheritance tax already paid. In some cases, tax rates themselves may be coordinated, such that gift tax rates are set at double the rate of inheritance tax (Radvan, 2025).

It is important to distinguish between inheritance tax and estate tax, as they differ in terms of what is subject to taxation. While inheritance refers to the

property transferred to a specific heir, the estate encompasses all property bequeathed by the deceased (Sobotovičová and Janoušková, 2018, 71). Estate tax is levied on the total value of the deceased person's estate before its distribution among beneficiaries. The tax base is therefore the aggregate value of the estate, and the tax liability is borne jointly and severally by the heirs, or it is settled by the estate administrator (Sheposh, 2025; Radvan, 2025). In contrast, inheritance tax is imposed on the individual share received by each heir, meaning that each person pays tax separately based on their portion of the inherited property. In systems with a progressive tax rate, it is generally assumed that the total amount collected through the estate tax will exceed the sum of inheritance tax payments collected individually from each heir. From this perspective, inheritance tax is considered an *in personam* tax, while estate tax qualifies as an *in rem* tax. In the context of tax fairness, inheritance tax should ideally be cumulative, meaning that all inheritances received by the same taxpayer during their lifetime would be aggregated to determine their tax liability. However, this method of calculating the tax base would entail significant administrative complexity (Kubátová, 2006, p. 255; Radvan, 2025).

This paper uses the term "inheritance tax" in the broader sense, including the estate tax. If some parts of the text deal specifically with the estate tax, the term "estate tax" is used.

2.2 Classification of Inheritance Tax in the Tax System

Inheritance tax is a specific form of taxation on the transfer of property that occurs as a result of the death of the deceased. Alongside gift tax and estate tax, it belongs to the category of so-called capital transfer taxes. These taxes are not subject to a regular tax period, as they apply to a one-off transfer of property between entities. However, this does not prevent a single taxpayer from paying this tax multiple times, depending on how often they become an heir or a donee. A common characteristic of these taxes is the gratuitous nature of the transfer, whereby, unlike the real estate transfer tax, the new owner does not provide any consideration for the property received (Kubátová, 2006, p. 255; Radvan, 2025). The other elements of the relation between the inheritance tax and the gift tax are explained above.

Inheritance and gift taxes also incorporate elements of personal taxation. A typical example is the application of a progressive rate for multiple gifts, where the tax liability is determined based on the total value of gifts received by a single recipient (Kubátová, 2006, p. 255). The acquisition of property through inheritance or gift leads to an increase in the total value of the taxpayer's assets and can thus be considered a form of income. For this reason, it is necessary to regulate the relationship between capital transfer taxes and income taxes to avoid double taxation. When inheritance and gift taxes are levied, inheritances and gifts should be exempt from income tax. Conversely, if no capital transfer taxes are imposed, inheritances and gifts are generally subject to income tax unless specific exemptions are provided under income tax legislation (Radvan, 2025).

2.3 Reasons for Abolishing the Inheritance Tax

Inheritance tax is traditionally classified as a property tax with a long history. It is one of the oldest tax institutions, which, in the past, together with gift tax, represented a significant source of public revenue. Since the beginning of the 20th century, however, their share of total tax revenues has gradually declined. It is their low yield that is the key factor contributing to the reduction or complete abolition of these taxes in several countries. According to recent data, capital transfer taxes typically account for less than 0.2% of GDP in OECD countries (Radvan, 2025). However, the share of inheritance and gift taxes in total tax revenue varies considerably across OECD countries. In the absence of uniform legislation at the European Union level, each country regulates this area independently. Different approaches to the taxation of property transfers consequently lead to significant variations in the revenue generated from these taxes (Sobotovičová and Janoušková, 2018, 14). Among the countries with the highest revenues from inheritance and gift taxes are France and Belgium, where high yields result from a modern approach to determining the tax base (Radvan, 2025).

Over the past decades, several countries, including the Czech Republic, Slovakia, and Austria, have moved to abolish the inheritance tax entirely (Radvan, 2025). The most frequently cited reason for this decision is the low yield of inheritance tax. If its average yield is around 0.2% of GDP, this share must be even lower in many countries. Moreover, its collection is administratively demanding, and the unfavorable ratio between revenues and the costs of administration has led many countries to conclude that this tax is uneconomical and ineffective.

A typical example is the Czech Republic, where inheritance and gift taxes were abolished on 1 January 2014. It was primarily due to exemptions granted to close relatives, which rendered the tax revenue almost negligible. According to tax administration data, the revenue collected was so low that, to the costs of administration, tax collection proved uneconomical.

Slovakia applied a similar approach in 2004, when the inheritance tax was abolished as part of a tax reform. Prior to 2004, the inheritance tax rate in Slovakia was progressive, based on the value of the property and the relationship between the deceased and the heir. According to the explanatory memorandum to Act No. 554/2003 Z. z., on the tax on the transfer and transition of real estate, this taxation system proved to be both unfair and ineffective (Národná Rada SR, 2023).

Another fundamental objection to inheritance tax is the risk of double taxation. Critics argue that property subject to inheritance tax was typically acquired from income that had already been taxed. Thus, its re-taxation contradicts the principle of tax fairness (Kubátová, 2006, p. 246). Consequently, inheritance tax is generally unpopular among taxpayers. Some opinions even describe it as a so-called deterrent tax, as it may discourage individuals from

the long-term accumulation of assets and their potential growth across future generations (Radvan, 2025).

Opponents of inheritance tax also commonly argue that it unfairly penalizes individuals who have saved and limited their own consumption during their lifetime to accumulate wealth for their descendants (Sobotovičová and Janoušková, 2018, p. 70). The issue of abolishing inheritance tax is often a subject of political debate, largely because society perceives this tax as unfair. Furthermore, the tax impacts heirs at a particularly sensitive time in their lives, which further diminishes its popularity among taxpayers. As a result, the abolition of inheritance tax is frequently a politically popular move.

2.4 Structural Components of the Inheritance Tax

The following part of the paper deals with selected structural components of the inheritance tax: the taxpayer and the object of taxation, the tax base and the tax rate, and the corrective elements. The tax administration aspects, including the tax collection and the budget destination, are also partially included.

The person of the taxpayer and the object of taxation are strongly connected issues. In fact, the decision of whether to collect the estate tax or the inheritance tax is based on the national civil law traditions and the legal system. While the Anglo-American system is based on the estate administrator (trustee), who is responsible for the administration of the estate until the estate shares are transferred to the heirs, the continental legal system prefers to transfer inheritance shares to heirs shortly after the deceased's death. The taxation follows the civil law regulation: the estate tax is paid by the trustee, while heirs are responsible for the inheritance tax. Assuming that the inheritance tax rate is usually progressive, the inheritance tax should be more beneficial for the taxpayers, especially if there are more heirs.

In most cases, the heir liable for inheritance tax is a natural person, but it is not impossible for a legal entity to become the heir. The method of acquiring the inheritance, i.e., based on the deceased's will or by law, respectively, or a combination of both methods, has no influence on the determination of the taxpayer. Under no circumstances shall joint and several liability apply to taxpayers in relation to inheritance tax.

As the inheritance can also be perceived as an income, the heir is liable in fact to two taxes: a specific inheritance tax, and a general income tax (usually personal income tax, in the case of legal entities, corporate income tax). The legislator should be aware of these consequences and prepare legal regulations to avoid double taxation on income from inheritances.

National regulations usually set several inheritance tax groups depending on the relationship between the deceased and the heir. These tax groups do not necessarily copy the inheritance groups as defined by civil law. The closer the relationship is, the lower the inheritance tax rate will be. Increasing tax-free allowances or even complete exemption cannot be ruled out either.

The object of the estate tax is the property left by the deceased. In contrast, the inheritance tax is levied on property acquired by the heir by inheritance on the deceased's date of death (mainly on the basis of a specific authority – court, notary – decision). In this case, property refers to immovable property and movable property, which, in addition to movable items, also includes securities, cash in any currency and form (including non-cash forms, i.e., deposits in accounts, etc.), receivables (monetary and non-monetary), property rights (e.g., copyrights and similar rights), and all other property values.

The division of assets into movable and immovable property affects the collection of tax and the rules of how to avoid double taxation (OECD, 2025). In the case of real estate located abroad, tax is not usually collected, whereas tax is always collected on real estate located in the country that collects the inheritance tax, regardless of the nationality or residence of the deceased. In the case of movable property, if the deceased was a citizen of the country that collects the inheritance tax at the time of death and had permanent residence there, tax is levied on all of their movable property regardless of where it is located (domestically or abroad). If such a person did not have permanent residence in the country that collects the inheritance tax but was still a citizen of this country, tax is levied only on their movable property located in this country. The same procedure would apply to a foreigner; tax would be levied only on their movable property located in the country that collects the tax. This system is apparently the most common (it is used both in Europe and outside Europe, e.g., in Hong Kong and Singapore – Rudnick and Gordon, 1996, p. 325). The above rules should be considered general rules, and in specific cases, it is always necessary to refer to the relevant international double taxation treaty, which takes precedence in application according to the *lex specialis derogat legi generali* principle.

Inheritance taxes are characterized by an extensive list of exemptions. For greater clarity, it is advisable to divide them into personal exemptions and material exemptions. Concerning personal exemptions, the most frequent are the thresholds for close relatives of the deceased and persons living in the same household. The closer the family relationship is, the higher the threshold is. Specific thresholds are mostly set for individual inheritance groups. In some cases, only widows and widowers and children are exempt from paying the tax. In these cases, the heir is not often even required to file a tax return, in which they would have to prove their entitlement to the exemption.

The other personal exemptions are connected to charitable and other public benefit purposes; the acquisitions of property by universities, research institutions, churches, NGOs, public benefit corporations, foundations, etc., are also exempt from inheritance tax.

The most frequent material exemptions are connected to pension insurance of the deceased or specific deceased's claims for compensation. In some countries (e.g., Belgium – Bourgeois, De Raedt, Richelle Graulich and Desmyttere, 2025; France – Beltrame and Quilici, 2025; Germany – Desens, 2025), exemptions are available to support family businesses. Other states (e.g., Bel-

gium – Bourgeois, De Raedt, Richelle Graulich and Desmyttere, 2025; France – Beltrame and Quilici, 2025; Germany – Desens, 2025; Ireland – Matikonis, 2025; Poland – Prejs, 2025; Spain – Varona Alabern, 2025; Singapore – Rudnick and Gordon, 1996) allow exemptions for residential property. The exemption might be conditioned: e.g., the Polish housing relief concerns residential property up to 110 m², and the acquired person must reside in the property and not sell it for at least five years (Prejs, 2025). Other exemptions are applied to support agricultural production (e.g., France – Beltrame and Quilici, 2025; Ireland – Matikonis, 2025; Serbia – Ilić Popov and Cvjetković Ivetić, 2025; Slovenia – Štemberger Brizani and Kovač, 2025).

In order to determine the inheritance tax liability, it is necessary to correctly calculate the tax base and assign the appropriate tax rate to it. The estate tax base is the value of the property; in the case of the inheritance tax, the value of the property acquired by each heir (as determined in the inheritance proceedings). The value is reduced by any proven debts of the deceased, reasonable costs associated with the deceased's funeral (funeral expenses), and other items such as administrative costs, including the remuneration of the estate administrator, court and administrative fees, bank charges, costs related to the valuation of the property, etc. The value itself can be set specifically for the inheritance procedures, including tax proceedings. However, if the value-based system is being used for the recurrent property tax, it is reasonable to use this value for the immovable property. The same statement applies to any movable property where the price is evident from any public register.

In most countries, the inheritance tax rate is slidingly progressive: the amount of tax payable by each heir depends on their relationship to the deceased and the value of the acquired property. It is therefore directly proportional to the value of the property. However, e.g., in the US, a fixed tax rate is used, which is even increased in the case of so-called generation-skipping transfers.

If inheritance tax is payable, the heirs are required to file an inheritance tax return. In contrast, in common law countries, a single estate tax return is filed by the estate administrator. When assessing tax, the tax office primarily relies on the tax return but may also use other available evidence (the inheritance file from the court or notary's office). If the taxpayer fails to file a tax return within the statutory deadline or fails to cooperate with the tax office, the tax office may assess the tax without the taxpayer's cooperation, as it has all the necessary information for its decision in the inheritance file. The assessed tax is communicated to the taxpayer, and the due date is also specified.

In almost all countries that collect any form of inheritance tax, the tax revenue belongs to the state (central) budget.

3 Discussion

Based on the research and analysis of the structural components of the inheritance tax, several questions appeared concerning the optimal and fair legal

construction of the inheritance tax generally and basic structural components specifically.

3.1 What is the (Legal) Sense of the Inheritance Tax?

Inheritance tax is a frequently debated topic; despite numerous arguments supporting its abolition, there are also many voices advocating for its retention. The purpose of the inheritance tax cannot be evaluated solely from an economic perspective, as its social functions must also be considered, including aspects such as social justice, equal opportunities, and limiting the concentration of wealth.

Inheritance and gifts can contribute significantly to wealth inequality among individuals, as recipients typically have no control over these factors. Acquiring wealth in this manner may lead to undeserved advantages that undermine the fundamental principle of equal opportunity. It is generally assumed that individuals with comparable incomes will have similar economic standing, but inheritance can cause substantial disparities in wealth without any merit on the part of the recipient, who did not have to sacrifice time or effort to acquire the assets.

Some proponents of stricter inheritance tax regulation argue that high-value inheritances may foster economic passivity, where recipients lose motivation to work because they are not required to generate their own income. Consequently, inheritance taxation is often advocated as a tool to level the playing field and enhance equality of opportunity (Sobotovičová and Janoušková, 2018, p. 70).

It is also assumed that inheritance tax can influence the economic behavior of heirs. A higher tax burden reduces the net value of the acquired property, which can incentivize increased labor participation and higher savings rates (OECD, 2021, p. 58).

From the perspective of tax fairness, it is legitimate for inheritances and gifts, as forms of gratuitous income, to be subject to taxation, since heirs or donees acquire them without direct effort or merit (Radvan, 2025). Some opinions even hold that inheritance should be taxed at a higher rate than income earned through one's own labor, as the tax system should primarily reward individual effort and productivity (OECD, 2021, p. 42).

Inheritance tax serves a redistributive function, as the untaxed transfer of large amounts of wealth across generations could lead to the concentration of wealth within a narrow segment of the population. Taxing these transfers helps mitigate intergenerational inequality.

Certain countries apply inheritance tax to encourage the preservation of wealth within families. In such legal frameworks, the inheritance tax rate is lower for transfers between direct family members, while transfers outside the family are generally taxed at higher rates.

An equally important argument for maintaining the inheritance tax is its fiscal significance at the local level. Although its share of total public revenue is relatively low in international comparison, in some countries, the inheritance tax remains an important source of income for municipal and regional budgets (Sobotovičová and Janoušková, 2018, p. 7).

For inheritance tax to be perceived as fair, its corrective elements must meet basic quality criteria. The most important structural element is the threshold value, which is linked to inheritance tax groups, as discussed in more detail below.

3.2 What is the Role of the Inheritance Tax in the Tax System?

This question aims to clarify the relationship between the inheritance tax and other taxes. The closest is the relation to other property transfer taxes, mainly the gift tax (Bernheim, Lemke and Scholz, 2004; Joulfaian, 2004; Joulfaian, 2005; Poterba, 2001) and the property transfer tax. If the country collects all three types of taxes, the taxpayers may speculate on the timing of transfers. Gift taxes usually have higher tax rates, lower thresholds, or other disadvantages compared to the inheritance tax, so the idea might be not to transfer the property during the lifetime. The property transfer tax thus comes into consideration. Moreover, the property transfer tax may have an even lower tax rate than other transfer taxes, especially in the case of high property values. However, specifically in the transfer within the family, the contracting parties may tend to undervalue the property to decrease the tax base. A solution may be found, for example, in the Belgian regulation, considering acquisitions based on another legal title than the transfer due to death (e.g., a contract, including a gift) as a legacy, i.e., subject to the inheritance tax De Raedt, Richelle Graulich and Desmyttere, 2025).

The other conflict of the inheritance tax is with the income taxes. From both the legal and economic aspects, inheritance is income and, therefore, is liable to personal or corporate income tax. The legislator must be aware of this possible double taxation, and the exemption of inheritance from income taxation must be secured.

3.3 Estate Tax or Inheritance Tax?

As stated above, the object of the estate tax is the property left by the deceased. In contrast, the inheritance tax is levied on property acquired by the heir by inheritance on the deceased's date of death. In fact, the decision of whether to collect the estate tax or the inheritance tax is predetermined by the civil law traditions and regulations.

3.4 How to Set the Inheritance Tax Groups?

The assignment to the inheritance tax groups is essential due to the thresholds and the tax rates being applied. Because of the principle of uniform terminology in law, it would be reasonable to define the inheritance tax groups

in the same way as the inheritance groups for the purposes of civil law (inheritance law). Such a solution contributes to the clarity of the legal system and the consistency in legal terminology. The sub-question is connected to the status of the divorced spouse; also, in this case, the inclusion of the divorced husband/wife/partner should be the same in tax and civil law regulations.

An exception to the rule of consistency in legal terminology could be widows and widowers. The inheritance tax could benefit them more, on the presumption that the inherited property was community property in which the spouses participated jointly. Another reason might be the desire to leave the surviving spouse sufficient assets to provide for subsequent independent living.

3.5 Is it Necessary to Measure the Value of the Inheritance Specifically for the Inheritance Tax?

Generally, it is not necessary to measure the value of the inheritance specifically for the inheritance tax. The value of the estate or the inheritance (property acquired by each heir) is usually previously determined in the inheritance (civil law) proceedings. In doing so, it is even suggested that the values used for other tax purposes can be used to set the value of the inheritance (e.g., the value of the immovable property used for the recurrent property tax). Of course, for inheritance tax purposes, the value should be reduced by debts, funeral expenses, and other administrative costs, so that the inheritance tax base expresses the net income of the heirs.

3.6 Progressive or Linear Tax Rate?

The research shows that almost all countries that collect the inheritance tax prefer the progressive tax rate (Farhi and Werning, 2010). Even if the linear tax rate is used, the progressivity in taxation is secured by the thresholds. The other widely spread phenomenon is the generation-skipping, i.e., lower rates for close relatives and higher rates for distant relatives and unrelated persons (Adermon, Lindahl and Waldenström, 2018; Bastani and Waldenström, 2021; Brunetti, 2006; Kopczuk, 2013; Wolff and Gittleman, 2014). The progressivity in inheritance taxation, however, means certain demands on the legislator. Primarily, the absolute tax rate must not be extremely high, representing a choking effect of the inheritance tax. Also, legislators must be aware of other taxes connected with the transfers of property (property transfer tax, gift tax) in the rate design so that taxpayers are not forced to speculate on various forms of wealth transfer during their lifetime. Extremely high taxation of property can also lead to the creation of specific legal entities, such as donations, foundations, or trusts, to optimize tax duties. The taxation of transfers to and out of these entities should then also be taken into account when setting the tax rates (Burman, McClelland and Lu, 2018; Tsoutsoura, 2015).

3.7 How to Deal with Repeated Inheritance?

A repeated inheritance means that the heir dies soon after acquiring the inheritance, or even before the inheritance proceedings are completed. It means that the same inheritance would be taxed twice in a short period of time, which is manifestly unfair. Only a limited number of countries (e.g., the US, Japan, and Hong Kong) offer solutions from partial exemption to a single assessment, while in Portugal, the tax rate can be halved if there is a second or further inheritance of the same property within five years (Rudnick and Gordon, 1996, p. 318; do Rosário Anjos, 2025).

3.8 What Corrective Elements are Necessary?

The most essential corrective element in the inheritance tax construction is the threshold. Thresholds are very strongly connected to the inheritance tax groups: the closer the relationship between the deceased and the heir is, the higher the threshold is. Many countries apply full exemption for direct relatives in the first inheritance tax group, usually consisting of spouses and children, sometimes also other persons living in the shared household. The reasons are primarily the intergenerational wealth mobility (Adermon, Lindahl and Waldenström, 2018; Bastani and Waldenström, 2021; Brunetti, 2006; Kopczuk, 2013; Wolff and Gittleman, 2014), and, in the case of family business, also the effects of inheritance taxation on business (Burman, McClelland and Lu, 2018; Tsoutsoura, 2015). The other reasons, connected mainly to spouses, might be the presumption that the inherited property was gained jointly by the partners, or the desire to leave the surviving spouse adequate financial sources for subsequent independent living.

The full exemption for the direct relatives can also be limited to children only. The reason is the so-called generation-skipping transfer, i.e., a situation when the taxpayer avoids taxation by leaving property to heirs two or more generations distant. The emphasis on the maintenance of minor children may also be reflected in the determination of the age of the children in relation to the amount of the exemption. The other limitation could be the only exemption in a spouse's lifetime to prevent situations where a young woman/man marries older men/women several times in her/his life in order to inherit their wealth. Interestingly, historical Luxembourg's wealth tax law only allowed the acquisition of certain assets by inheritance between spouses to be exempted if there are children born of the marriage (Rudnick and Gordon, 1996, p. 317).

Concerning material exemptions, many of the reasons mentioned above also argue for partial or full exemption of primary residences. Support for agriculture can be reflected in the exemption of agricultural land.

It should also be added that there is a possibility to combine several corrective elements, such as the full exemption (i.e., the threshold) and a lower tax rate.

3.9 Is it Necessary to File the Inheritance Tax Return?

On the assumption that inheritance courts, notaries, trustees, etc., exercise in some sense a delegated public administration and that the complete information about the deceased, heirs, property and its value, etc., is available online, there is no need to file the inheritance tax return. The tax office can get all the necessary information on its own, without the taxpayer's cooperation. Such a solution aims to reduce administrative costs and save time for the taxpayer. Of course, all the general principles of effective collaboration between the tax office and the taxpayer must be followed in the tax procedure.

3.10 How to Secure Inheritance Tax Payments?

The inheritance tax is, by its very nature, a tax *in rem*, which means the taxpayer does not necessarily have the means to pay for it. From these perspectives, the estate tax seems to be more effective, especially if the trustee, as a taxpayer, has an adequate time to exchange assets for funds. Nevertheless, for both estate and inheritance taxes, general instruments preventing non-payment of taxes are available. The most common instruments, regulated in the general tax codes, are the postponement of tax payments and the payment of tax in instalments. The more beneficial conditions for these tools (more extended period, lower or no additional fees or interests, etc.) can also be explicitly set for the property transfer taxes, including the inheritance tax. The other securing institute is a surety: in the case of the estate tax, the heir(s) are the sureties, while in the case of the inheritance tax, the trustee or the other heirs can guarantee the tax payments.

4 Conclusion

Fairness, as a fundamental principle of the tax system, is a key criterion for assessing the legitimacy of any tax, and this issue is particularly sensitive in the case of inheritance tax. While the fiscal significance of this tax is relatively limited in most countries, the rationale for its retention often lies in considerations of fairness. The following section, therefore, focuses on the different dimensions of tax fairness to inheritance tax and outlines the conditions under which it can be perceived as a legitimate and equitable component of the tax system.

Tax theory primarily distinguishes between horizontal and vertical fairness. Horizontal fairness assumes that individuals with the same level of income or wealth should bear a similar tax burden. In other words, people in comparable financial situations should not be disadvantaged from a tax perspective simply because one acquired their wealth through personal labor, while the other did so through inheritance or a gift. According to this principle, taxpayers with similar ability to pay should not be subject to different tax rates (Nováková, 2007, p. 23). From this perspective, inheritance tax can be viewed as a tool to equalize conditions between recipients of inherited wealth and individuals who generate capital through their efforts (OECD, 2021, p. 43).

Inheritance tax can also promote the principle of vertical equity, which is based on the premise that individuals with higher incomes or greater wealth should bear a larger tax burden than those who are economically less advantaged. To achieve this objective, a progressive tax rate is commonly applied, ensuring that entities acquiring a greater volume of assets through inheritance are subject to higher tax liabilities (OECD, 2021, p. 43).

Inheritance often represents a significant increase in the total wealth of the heir, and progressive taxation can help reduce wealth inequalities within society. The transfer of wealth between generations without taxation tends to concentrate wealth and distort equal opportunities for future generations. Such an approach can lead to the emergence of a wealth elite whose economic standing reflects their privileged family background rather than their efforts. Inheritance tax can mitigate this effect and contribute to a more level playing field for subsequent generations (OECD, 2021, p. 43).

The hypothesis of this paper, stating that the inheritance tax is a traditional tax firmly anchored in the tax systems of individual countries, was confirmed. Nevertheless, the decision of whether to collect any inheritance tax or not is solely political. If politicians are brave enough to continue to levy or renew the inheritance tax, they must explain it to the taxpayers – the voters. For inheritance tax to be perceived as fair by taxpayers, it must be structured to reflect the taxpayer's actual economic situation accurately. An important mechanism in this regard is not only the application of a progressive tax rate but also the introduction of tax-free thresholds, which protect small inheritances from disproportionate taxation. As is evident from the other design of the inheritance tax structural components mentioned above, the law and legal regulation can make a fair inheritance tax happen.

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