

**INHERITANCE TAXES IN THE EU FISCAL SYSTEMS:
THE PRESENT SITUATION AND FUTURE PERSPECTIVES**

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INHERITANCE TAXES IN THE EU FISCAL SYSTEMS: THE PRESENT SITUATION AND FUTURE PERSPECTIVES.

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Abstract:

This report revises the present situation of inheritance taxes within the EU, noting the important diversity with which the national legislations regulate this tax and the problems that this can create for the free circulation of persons and capital between the member countries. Not generating a certain approximation we can predict a process of competition among the countries that would lead to its disappearance. The scarce quantitative importance that the statistics of the inheritance taxes offer does not correspond with the important role that they should play in the modern fiscal systems, where the patrimony imposition will have (in the future) a noticeable role.

Keywords: public collections, imposition on wealth, inheritance taxes, fiscal competitiveness, efficiency, territorial financing, free circulation of persons and capital...

JEL classification: F02, H21, H30, H71, H77, H89.

1.- INTRODUCTION

An intense economic and political discussion around the subject of maintaining inheritance taxes in the modern fiscal systems has recently arisen. It was precisely the elimination of this tax which President George Bush included in his agenda for tax reform. The intention was to favour savings and generation of capital which would give rise to superior measures

of economic growth. However, this controversial project has not yet been fulfilled. The President of the United States received an unusual manifesto in which more than one hundred multi-millionaires asked him not to withdraw the inheritance tax. Paradoxically, among the signatories were some of the richest men in the country who would have benefited from the measure. The objective of this campaign, highlighted by The New York Times, was to avoid the consolidation of a 'wealthy aristocracy which would pass on control over national resources to its descendants based on inheritance and not merit'.^(1.)

However, this controversy does not yet seem to have reflected upon the academic climate and the amount of research that has been carried out on this type of tax is very limited. The aim of this investigation is to clarify the situation and relative importance of this tax in countries within the OECD, giving us an idea of its possibilities in the more immediate future. This question is of great importance to countries within the EU, since recently we have seen several cases in which the tax has been practically abolished.² This linked to the possibility of free movement of people and capital means that those countries establish themselves in the most favourable fiscal climate, with inheritance tax being the most changeable of the taxes. This situation, albeit on a different scale, is taking place in Spain, where authority

¹ Atkinson (1981), p. 210 comprises the results of the investigations of Harbury and McMahon in Great Britain about the individuals that left an inheritance of considerable wealth in 1956-57 and 1965. Taking deceased males as a sample, they calculated the wealth that these had inherited from their parents in order to determine how significant the rich predecessors were, premeditatedly excluding the transmissions in form of gifts or donations. The conclusion that the study obtained was that more than two thirds of the rich who were passing on their wealth had themselves inherited substantial sums. Later on, a wealth of articles appeared that endorsed this idea from different points of view;

- Atkinson (1977), p. 156-174, which studies the life cycle of the effect of taxes on wealth with the objective of the redistribution of wealth
- Harbury, (1974), p 163-168, which affirms the hereditary father-son relationship as the most outstanding variable in the composition of substantial patrimonies.
- Blinder, (1977), p 174 and 175, which mentions the final effects of the inheritances, and which definitively produce a total inequality of incomes.
- Stiglitz (1977), p 145-156 that analyse the different factors that influence the distribution of wealth, where special relevance to free transmissions is given.

² This tax has been practically abolished in Italy and Sweden. Furthermore Portugal has introduced measures that will lead to its disappearance on January 1st 2005

on this tax is given to lower levels of government and culminating in a process of fiscal authority which may result in it being imposed at almost non-existent levels.

This investigation offers reflection on this important topic and its structure has three clearly different parts. Firstly, we will review the main types of inheritance tax in the OECD countries and highlight both the diversity of these taxes and the extreme casuistry. Secondly, the aim will be to analyse figures recorded from diverse points of view, helping us to confirm its limited importance in the present day. Finally, before concluding, we will reflect on its possibilities in the nearer future within Europe, looking at the Spanish case and the repercussions which, for its survival, may mean a process of intense fiscal competition between countries belonging to the EU.

2.- THE ESSENTIAL CHARACTERISTICS OF THE TAX ON INHERITANCES AND GIFTS IN EU COUNTRIES.

2.1.- TAX IN COUNTRIES THAT ADOPT THE METHOD OF 'TAX ON HEREDITARY SHARES'

Although all countries rely on some kind of inheritance tax, no single applicable model exists in practice. The majority of countries adopt the transfer "mortis causes", the Hereditary Portions model, the United Kingdom alone opts to impose taxes exclusively on an estate, while Denmark, Italy and Switzerland combine both types. Ireland, as we will see in the following pages, employs another tax model which does not correspond exactly with the traditional formulae³. The most representative reference of the

³ Some other proposals for taxing exist, although they do tend to be reflected in the national legislation. An example of this is the case of the Equivalent Inheritance Tax that "take as a whole the patrimonies corresponding to physical persons that for not being subject to being

combination of both possibilities is the case of Denmark, although the transfer to a surviving spouse is exempt, both for the tax on an estate and for the tax on inheritance shares.

Even so, nearly all the countries analysed have a single tax on hereditary quotas, although the type of tax imposed varies⁴. Subsequently we are going to refer to some of the most interesting details, which will demonstrate the enormous casuistry existing in the countries of the EU.

A) A comparison of the fiscal processing of inheritance and gifts

The majority of countries offer identical fiscal processes for inheritances and gifts in order to avoid creating incentives for people to hand over their estate or assets while still alive and avoid the tax when deceased⁵. Even so, exceptions exist, as in the case of Belgium where no total comparison exists and gifts alone are taxed if they have been recorded in a registered public document in that country⁶.

transmitted via hereditary channels are exempt from inheritance tax". Gerloff (1961), p. 565. Also in Fuentes Quintana (1990), p 294.

⁴ Similarly Taylor (1960), p. 467, when affirming that the desire to adjust the tax to the ability to pay is that which has generated a general enthusiasm for a tax on hereditary portions as opposed to the Inheritance Tax. It is certain that these two patrimonies do not have the same burden as one of them is transferred entirely to a single heir, while the other is divided among several. Because the burden refers to the heirs and not to the patrimony and the application of the progression to the patrimony before the division is nothing more than, in the best of cases, a rough application and manageable from the principle mentioned .

⁵ "This tax is also denominated "consequence tax", whenever it constitutes an alternative tributary to avoid the exemption or evasion of the fundamental inheritance taxes. Hence, the tax on those donations should be regulated in parallel (with tax rates of the same level and progressive character) to that on inheritances because otherwise, a more benevolent fiscal treatment for the former would open a fast track to the evasion of the second of the mentioned concepts." Valle Jiménez , (1995), p. 757.

⁶ Items of furniture that are handed down are exempt from this tax. However, when the donor dies within three years of their donation, this becomes part of the legacy and is subject to Inheritance Tax .

The Danish tax on gifts establishes a singular regime, where quantities donated to spouses are free of tax, and if donated to the next closest family member have different types of tax that have been established in the case of an inheritance. Finally, people with no family ties do not pay this tax but rather income tax. Moreover, the tax does not concentrate on every individual transfer, but is applied to the gifts accumulated over the year.

Norway offers a different process. It tries to combine the freedom of the distribution of a personal estate with measures that avoid possible fraud on inheritance tax if gifts stay completely free of taxes. Thus, gifts given to those outside the line of succession are free of tax, provided that such recipients had not been named as heirs in the will. In this way, if a gift were given from the donor to such people the inheritance tax would have to be liquidated. Subsequently, in the event of a death, and when calculating the amount of tax to be paid, the acquisitions received previously by a person from the same testator or donor would be taken into account, so that for each recipient the tax is calculated as the sum of all the acquisitions. The amount of tax to pay is calculated in this way and reduced by the amount of tax previously paid.

B) Transfers to the closest members of a family

In all cases examined the process favours parents, children and grandchildren considerably with reductions of diverse quantity. Even so, the most favoured transfers are those which occur between spouses or in favour of the surviving spouse ⁷, and which can even become totally exempt, as in the case of Norway and Switzerland. We have already said that in Denmark an inheritance or gift transfer to a spouse is exempt both for the estate and for the additional tax or inheritance shares.

⁷ In some countries such as Holland this preferential treatment toward the spouses extends to common law couples that have lived together for more than 5 years (after reaching 21 years of age). If such a couple have cohabited for less than 5 years the deduction decreases proportionally.

In other cases important reductions in favour of the closest members of the family are contemplated. The aim of this is to recognise the participation in the estate to be transferred or as a means of integrating the family as a key institution within society. It emphasises, again, deductions in favour of the spouse, which range from approximately 300,000 euros in Germany to 76,000 euros in France or the 15,956 euros in Spain. Children and descendants assume the following group benefiting mostly from variable reductions according to their age, although it is possible to find cases in which linear reductions exist for any type of recipient. This would apply to Norway, where the first 12,000 euros are tax-free regardless of who receives the inheritance or gift and, with considerably lower reductions, Germany, Spain or Greece.

Nevertheless, in all the countries the reductions are variable according to the intensity of the family bond. Thus, the relative collateral, for example brothers, parents-in-law, sons and daughters-in-law and nieces and nephews, are the group which have smaller reductions. In some cases, such as Belgium, they do not even exist and in others are considerably reduced for example 1,500 euros in France, 5,000 in Greece or the 440 in Austria.

C) Passive subjects and imposition due.

As is the norm the tax generally falls on the beneficiary of the inheritance or gift and is due at the time of death or on receipt of the item given. With respect to gifts, a recipient is always designated as the passive subject, although cases exist in, for example, Denmark, Germany and Holland, where the donor and the recipient are equally responsible for the payment of the tax. In other cases, those obliged to pay can be designated by means of an agreement, as in Belgium where, through a contract, it is possible to transfer the responsibility to the donor.

In the case of inheritances, each beneficiary is required to pay tax. Nevertheless, although we are talking about taxes on shares which, for each person involved, correspond to the hereditary patrimonial mass, some countries form bonds between all the heirs, fundamentally with the aim of obtaining joint responsibility for paying the tax. In France, all heirs respond solely to the perfect fulfilment of tax obligations, factors which in Denmark are extended to the person who administers the inheritance. In Holland fiscal authorities have the right to distribute the tax debt to heirs who are not resident in this country.

D) Taxable base. Criteria of valuing.

The taxable base is normally determined by each one of the free transfers which are the object of imposition and exclusively by the net value of the goods and rights received. In principle, the majority of countries apply tax to the transfer of all kinds of goods, although there are exceptions to this rule. In France, provided they comply with a series of conditions, life insurance, historical monuments and forests are totally or partially excluded from the taxable base. Exemptions of this type also exist in Germany, where since 1994 an inheritance after a death and through business patrimony is exempt up to a limit of 250,000 euros.

With respect to valuation the preferred criterion is that of the real market value of goods that each beneficiary has the right to receive. Nevertheless, each country establishes special valuation rules for certain goods. In the majority of the countries analysed the official value is used for property, pensions related to from life insurance which are the current value of the multiplying annual income and shares without official quotation, as well as the family business, in accordance with the accountable valuation by a coefficient. The value of actions with official quotation is usually claimed using the quotation of the date of the transfer or the average of a determined time limit.

Other norms are applicable with regard to goods of artistic, historic or scientific interest. In Germany, buildings, objects of art, scientific and artistic collections, libraries and files that have public interest and whose conservation costs surpass the income itself, are valued at a sixth of their value. In other countries they are completely exempt if dedicated to a public use. Finally, with respect to the valuation of the domestic trousseau, that is, personal property, money, jewels and personal belongings, the most common criteria used is to apply a percentage of the value of other goods.

E) Quantification of the Tax Debt. The tax rate.

The tax to be paid is determined in view of the combination of a series of circumstances which determine the application of a greater or lesser progressive tariff.

By analysing the design of the tax in different countries we see that in almost all cases the amount of inheritance and the type of relationship between the beneficiary and the donor are the most relevant factors. From a combination of both we will obtain the adjustment of the types of tax. In some cases, for instance in Spain, coefficients exist which are established according to the patrimony of the heir, increasing the effective applicable type.

Normally, the relationship established is that of the progressive taxes, that is, the greater the quantity, the greater the applicable type. Some cases exist in which the steps are the same for all the beneficiaries, but the quota obtained will be adjusted according to the degree of the relationship. The number of steps varies greatly, from the range established in Belgium or Austria of only 2 or 3, to that of 7 or 8 in Holland, Germany or Norway. In other cases different scales exist according to the beneficiaries of inheritances or gifts, the family bond with the deceased being a valuable factor. The less progressive rate will apply to transfers carried out at a certain level among close family, being increased if a transfer on the same level takes place between more distant relatives.

Finally, we should refer to the structure of the rate of tax. The intensity of the tax types and the distance between the minimum and maximum varies considerably between countries. The most extreme case is in Belgium, where the types range from 3 per cent for small inheritances to 80 per cent for large inheritances if no family bond exists. In Any case, the minimum does not usually exceed 10 per cent, and is 7 per cent in Portugal and Germany, and 5 per cent in France and Holland, while the maximum shows more disparity and ranges from 16 per cent in Finland, to 40 per cent in France for all cases of transfers taking place outside the family circle.

2.2.- OTHER FORMS OF TAXES IN THE COMPARATIVE RIGHT. TAX ON A PERSON'S ESTATE IN THE UNITED KINGDOM AND IRELAND.

As we have already shown, some isolated cases exist in which the structure of the tax analysed does not correspond to the traditional tax model or hereditary shares. Steering away from those countries that, like Denmark combine the two formulae, the United Kingdom is the only country analysed which adopts a tax system exclusively on the estate, offering us the opportunity to see how a tax of this type works in practice. On the other hand, the case of Ireland adopts a modern and innovative formula, offering us a different and very interesting perspective and takes us back to Carl Shoup's 'Tax on Capital Acquisitions' which we will also study, although more briefly.

2.2.1.- Tax on an estate in the United Kingdom.

In the case of the United Kingdom the tax is applied to the total transfer of a patrimony, and is demanded before the distribution of the inheritance takes

place. For each inheritance a single tax is applied rather than several taxes, as with the method of tax on hereditary shares.⁸

The current tax on British inheritance (Inheritance Tax), is applied to the total value of any kind of property acquired through death. Generally, there is no tax on gifts, however, in order to avoid evasion, and in the cases where it is very evident, inheritance tax is applied to determined gifts carried out during the 7 years prior to a donor's death.

The peculiarity of this tax structure causes important differences with other countries where the tax is highly personalised (taking into account the personal circumstances of the heirs and applying progressive types according to the degree of the relationship and the patrimony of the receiver). In the case of Great Britain, the tax is an objective one which only really considers the value of the inheritance transferred. On the other hand it is a proportional tax which applies a single rate of 40 per cent to very large inheritances.

Being an objective tax on transfers of value, the law does not specifically indicate one person, but a group of people as responsible for the payment. Thus, in the case of a gift, the obligation of paying the tax falls, once again, on the donor although negotiations can take place so that it falls on the recipient. With transfers after death, the tax is paid by personal representatives of the deceased and tends to fall on recipients, legatees or on the executor of the will⁹.

Although the tax is applied to transfers of all goods after the death of a person and on some transfers carried out while the person is still alive, the law establishes a series of property (excluded property) which is exempt from

⁸ Musgrave (1992), page 540 refers to *the fact* that this *tax formula* is especially adequate when the state desires to limit the right of the persons to arrange *have their* property *available* at the moment of *their* death, being able to establish exemptions for hereditary participations that do not *exceed* certain *limits*.

⁹ Nevertheless, the will of the testator can be that certain heirs receive their part free of tax, which effectively results in this being covered by the others.

tax¹⁰, and other property which is potentially exempt. Among these are valuable transfers within a marriage (whether gifts or inheritances) if both spouses reside in the United Kingdom, gifts (within determined limits) given by parents to children who marry and transfers carried out in favour of institutions of national interest, non-profit organisations, charitable institutions and political parties¹¹.

With regard to the rate of tax, its structure has a limited progressive scale. Inheritance tax has a rate of zero up to the limit of £275,000, and once this limit is exceeded, the rate is single and proportional at 40 per cent for transfers after death and similarly for transfers from a living person but at 20 per cent. The combination of the exempt minimum and the proportional type applicable to the part of the transfer which exceeds that quantity, will make up an average rate of tax with a limited progressive scale.

Apart from these details, we can see that the British tax is quite limited when it comes to applying it. The minimum exempt of a substantial amount, as well as exempt transfers according to the nature or amount of the goods or the relationship make it a tax which is barely present in the country's society. Nevertheless, the model adopted constitutes an example, in practice, of obligation on the estate with a less personalised design and, perhaps, more

¹⁰ Some of these are the following;

- Goods that are located outside of the United Kingdom, provided that the beneficiary corresponds to a physical person who is not a resident of the United Kingdom.
- British public debt belonging to people that are not ordinary residents nor residing in the United Kingdom, when this has been stipulated in the conditions of the emission.
- Works of art belonging to foreigners that are subject to British tax for reasons of residing in the United Kingdom on the date of the tax, provided that the reason for their being located there was their exhibition to the public.

¹¹ Small contributions that do not exceed 250 pounds to the same person are also exempt. The intention is to leave small contributions and gifts of everyday life. Besides the above-mentioned, the rate of tax decreases 100% when transmissions of shares in companies which are not constituted as limited companies or commercial companies whose actions are not quoted on the stock exchange occur. For certain transmissions of business activities the rate decreases notably the same as that for transmissions of certain agricultural goods.

operative with respect to the enormous casuistry of taxes on hereditary shares.

2.2.2.- The Irish alternative to inheritance tax.

In Ireland it is called the Tax on Acquisitions of Capital and is applied to the recipient of a gift or belongings received after a death. The most interesting aspect of this tax is that it is demanded from each recipient or heir, but to determine the rate imposed, all the goods received by a person from a single donor are accumulated. Thus, inheritances and gifts received after 2 June 1982 are accumulated during the life of the donor. The tax therefore takes a vital path into consideration with the aim of avoiding one of the most well-known practices of tax evasion – successive partial transfers of a person's patrimony.¹².

The configuration of the tax in Ireland takes us back to Shoup's Tax on Patrimonial Acquisitions¹³. For example, it does not accumulate the free transfers received from any person but only those from the same donor. It also offers important differences with regard to alternative views previously given, since although some norms aimed at accumulating transfers of this type do exist, they always have a temporary determined limit and never reach the whole life of the donor as is the case in Ireland. Nevertheless, similarities also exist and some transfers are exempt, in such a way that the tax is not

¹² This system proposed by Shoup has a wide acceptance for part of the doctrine, Due (1990), p. 342 states that this system would place the burden more in line with the accepted patterns of fairness." Other economists and instigators of the tax include the North Americans Rudick and Andrews and the Briton Sandorf.

¹³ Carl Shoup included this tax among those recommended for the Japanese reform at the time of the reconstruction in the report that he directed in 1949. Japan followed that advice and applied a tax on patrimonial acquisitions during the period 1949-1952. In accordance with the proposed system any heir can receive donations and legacies from various donors and deceased persons, although a unified tax is required for the person who receives the donation. The scale of rates would be progressive according to the total value of the legacies and donations received by any collector during his life, regardless of the number or type of donors or deceased." Shoup, (1980), p. 494.

required on gifts and inheritances passed between spouses or those in favour of charitable institutions.

With regard to the rate applied, the first is a zero rate band in which the quantity depends on the relationship between the recipient and the donor. The group which benefits the most is made up of children, parents, younger siblings of the donor and a widow or widower of a deceased child, with a quantity of around 466.725 euros. Secondly other relatives with 46.673 Euros, and thirdly recipients who have no family bond with reductions of 23.336 Euros.

When goods are received with a value that exceeds the cost of the phase taxed at zero rate, a rate is applied which, for inheritances, is at 20 per cent for the amounts that exceed the previous limits. In the case of gifts the rate is three-quarters that of the previous rates. However, if the gift is carried out during the two years prior to the death, the full rates apply.

3. THE SCOPE OF TAXES ON FREE TRANSFERS OF WEALTH IN COUNTRIES IN THE EU.

The different approaches used for the regulation of this tax become significantly similar if the analysis concentrates on the importance of its collection in absolute terms or with regard to other taxes. The fact is that, with some exceptions, the presence of this tax is diminishing with time and is currently very scarce in the majority of countries¹⁴

¹⁴ To carry out this study we have used the data published by OECD in the 1999 edition of "Revenue Statistics", which includes the occasional series from the period 1965-1998 where you can find data about the tax collection of the member countries of this organism. In order not to dwell too long on this we will not refer to the entirety of the member states of the

From the collection of wealth taxes, inheritance taxes are those which have suffered this backward step with the greatest intensity while, as we will see, ordinary taxes on patrimony have stayed at similar levels, or in some cases, have even increased. Table 1 shows the comparative evolution of wealth taxes and hereditary taxes in respect of the total fiscal income, giving rise to uneven behaviour. A constant growth can be observed in Wealth tax in recent years and a reduction in inheritance tax.

TABLE 1 TAX INHERITANCE WITH RESPECT TO FISCAL COLLECTIONS

	1965	1970	1975	1980	1985	1990	1994	1995	1996	1997	2000	2002
TOTAL												
INHERIT. TAX	1,15	0,88	0,59	0,41	0,45	0,49	0,4	0,5	0,44	0,51	0,70	0,65
TOTAL												
WEALTH TAX	7,69	6,80	6,11	5,38	5,45	5,6	6,16	6,04	6,05	6,03	6,30	6,83

Total combined values for all the countries for better reading.
Source: OCDE, Revenue Statistics 1965/2003.

The trend that we have described can also be observed if we look at the countries on an individual basis. Table 2 reveals that only in the cases of Germany, France and Japan has the level been maintained or even slightly increased, even if their performances show very small quantities - around 1 per cent of the total fiscal collections. In some countries such as Sweden, Austria and Italy it is maintained at symbolic levels, while in Canada and Australia it has practically disappeared. The most significant drops occurred during the 1980s, and since then have been maintained at low levels with slight modifications.

organisation but rather to those we consider more relevant, even those outside the European environment. Hence, our study will refer to Austria, Denmark, Germany, Switzerland, Italy, Norway, United Kingdom, Sweden, Holland, Portugal, France and Spain on the one hand and to Canada, Australia, USA and Japan on the other.

TABLE 2 TAX INHERITANCE WITH RESPECT TO FISCAL COLLECTIONS, BY COUNTRY

Inheritance tax/ fiscal collections	1965	1970	1975	1980	1985	1990	1994	1995	1996	1997	2000	2002	2003
Austria	0,25	0,22	0,18	0,16	0,16	0,14	0,13	0,11	0,11	0,11	0,12	0,15	0,16
Denmark	0,65	0,35	0,6	0,38	0,47	0,56	0,46	0,48	0,43	0,39	0,44	0,38	0,40
Germany	0,22	0,24	0,14	0,18	0,22	0,34	0,27	0,26	0,3	0,3	0,38	0,39	0,43
Swiss	1,12	1,03	0,72	0,75	0,82	0,91	0,91	0,87	0,88	0,88	0,95	1,01	0,73
Italy	0,85	0,64	0,21	0,21	0,23	0,14	0,18	0,15	0,17	0,16	0,19	0,12	0,06
Norway	0,27	0,24	0,22	-	0,1	0,15	0,18	0,25	0,24	0,22	0,20	0,18	0,22
U. Kingdom	2,62	2,01	0,82	0,59	0,69	0,66	0,63	0,57	0,62	0,56	0,62	0,63	0,61
Sweden	0,39	0,36	0,25	0,21	0,26	0,19	0,14	0,17	0,16	0,19	0,21	0,25	0,20
Holland	1,07	0,58	0,37	0,48	0,44	0,5	0,68	0,61	0,68	0,67	0,89	0,97	0,82
Portugal	2,48	1,44	0,93	0,24	0,83	0,5	0,21	0,22	0,21	0,23	0,24	0,22	0,21
France	0,56	0,72	0,75	0,57	0,61	0,95	0,91	0,82	0,89	1,08	1,07	1,05	1,06
Spain	0,97	0,9	0,76	0,41	0,38	0,42	0,57	0,51	0,51	0,57	0,62	0,59	0,63
Australia	2,73	2,67	1,49	0,44	-	-	-	-	-	-	-	-	-
Canada	1,46	1	0,27	0,07	0,03	-	-	-	-	-	-	-	-
Japan	0,71	0,94	0,97	0,71	1,18	1,41	2	1,94	1,7	1,66	1,30	1,13	1,13
USA	2,06	1,68	1,45	1,15	0,82	1,01	1,08	0,98	1,06	1,12	1,22	1,09	1,01

FUENTE; OCDE Revenue Statistics 1965/2003.

A different perspective is given in Table 3 which compares the collection of these taxes with the GDP and with the evolution of fiscal pressure. Being generally progressive taxes, the percentage of performance should usually create a superior rhythm generated by the general wealth of the country. This contrasts with the data of the countries analysed (except France and Germany), where the percentage of collection to the GDP diminishes.

TABLE 3 COLLECTIONS OF INHERITANCE TAXES WITH RESPECT TO GDP AND EVOLUTION OF THE TAX BURDEN

1965 1970 1975 1980 1985 1990 1994 1995 1996 2000 2002 2003

Austria	Rec ISSD/PIB	0,08	0,07	0,07	0,06	0,07	0,05	0,05	0,04	0,05	0,05	0,06	0,06
	Presión fiscal	34,3	35,1	37,5	40,5	42,1	41,1	43	43,3	43,6	42,6	43,6	43,1
Alemania	Rec ISSD/PIB	0,06	0,07	0,05	0,06	0,08	0,12	0,10	0,10	0,11	0,14	0,14	0,15
	Presión fiscal	32	33,4	36,4	37,9	37,8	37,3	38,2	38,3	38,3	37,2	35,4	35,5
Italia	Rec ISSD/PIB	0,21	0,17	0,05	0,06	0,08	0,05	0,07	0,07	0,07	0,08	0,05	0,02
	Presión fiscal	25,7	26,5	26,4	29,6	35,2	38,7	42	41,8	42,8	43,2	43,5	43,1
Reino Unido	Rec ISSD/PIB	0,82	0,72	0,28	0,20	0,25	0,23	0,21	0,20	0,21	0,23	0,22	0,21
	Presión fiscal	31,6	36,0	35	34,6	37,6	36,2	34,5	34,9	35,2	37,5	35,6	35,6
Francia	Rec ISSD/PIB	0,19	0,25	0,27	0,23	0,26	0,40	0,39	0,36	0,39	0,47	0,46	0,46
	Presión fiscal	34,5	35,1	37	41,3	44,3	43	43,7	44,3	44,7	44,4	43,4	43,4
España	Rec ISSD/PIB	0,14	0,15	0,14	0,09	0,11	0,14	0,19	0,17	0,16	0,21	0,20	0,21
	Presión fiscal	15,1	16,8	19,1	24,1	29,3	34,6	34,2	33,5	33	34,8	34,8	34,9
EEUU	Rec ISSD/PIB	0,52	0,46	0,39	0,31	0,21	0,28	0,30	0,27	0,3	0,36	0,31	0,25
	Presión fiscal	25,5	27,7	27,3	27,6	26,6	27,8	28,3	28,8	29,2	29,9	26,3	25,6

SOURCE; OCDE, Revenue Statistics 1965/2003.

It is worth mentioning that the two variables that we link together follow a curiously conflicting trend. While in all cases the general fiscal pressure (understood as the sum of the tax revenue with respect to the GDP) tends to be notably increased, the performance of the tax which we examine does not follow the same line, but instead, tends to decrease. The exception to this rule takes place in France and Germany, where the collections follow the same growth trends as the tax revenue, albeit by a very limited amount. Even in the first of them the figure of 0.39 of the year's GDP in 1997, which could stand out, remains minimised if we consider that periodic taxes which fall on real estate property provided 0.91 of the GDP, the introduction of income tax 7.2 of the GDP and taxes on consumption 10.10.

Nor is the practical influence of tax, with regard to the objective of redistributing income and wealth particularly notable (Table 4) and it is not even consolidated or maintained with time. The majority of the countries have lost influence over this objective, only France, Holland and Japan offer notable indicators in this sense whose percentages are the highest with respect to re-distributed taxes. In other countries such as Denmark, Norway or Sweden it has an anecdotal presence, with values of 1 per cent with regard

to this group of taxes. Thus, we confirm the idea that, in respect of the objective (one of the main reasons this tax exists), the contribution of inheritance taxes is minimal, currently being postponed in favour of other taxes, mainly income tax.

Furthermore, in countries where a tax on personal assets exists, the importance of taxes on free transfers is less than in countries where it does not. The confirmation of this in the majority of cases, with the exception of Italy, leads us to think it could be a question of an effect desired by the legislator of both taxes complementing each other¹⁵.

TABLE 4 INHERITANCE TAXES WITH RESPECT TO TOTAL OF REDISTRIBUTIVE TAXES.

Inheritance tax/ redistributive taxes	1965	1970	1975	1980	1985	1990	1994	1995	1996	1997	2000	2002	2003
Austria	1,1	0,8	1	0,8	1	0,6	0,6	0,5	0,5	0,5	0,4	0,5	0,5
Dinamarca	1,4	0,6	0,6	0,6	0,8	1	0,8	0,8	0,7	0,7	0,7	0,6	0,6
Alemania	0,7	0,8	0,4	0,5	0,7	1,1	1	0,9	1,1	1,2	1,2	1,4	1,5
Suiza	3	2,6	1,8	1,8	2,1	2,3	2,3	2,4	2,4	2,4	1,9	2,1	1,5
Italia	7,7	5,9	1,3	0,9	0,8	0,5	0,7	0,5	0,6	0,6	0,5	0,3	0,1
Noruega	0,6	0,6	0,6	0,3	0,4	0,5	0,6	0,9	0,9	0,8	0,4	0,4	0,5
Reino Unido	8	6,3	2,1	2	2,6	2,3	2,2	2,1	2,3	2,2	1,5	1,6	1,6
Suecia	0,7	0,7	0,5	0,5	0,6	0,5	0,4	0,5	0,4	0,5	0,5	0,7	0,5
Francia	5,2	6	6	4,3	4,5	10,6	6,3	5,9	5,4	6,3	4,1	4,2	4,4
España	6,6	7,8	5,2	1,9	1,9	2,5	2,4	2,1	2,1	2,5	2,1	1,9	2,1
Holanda	3,7	2,1	1,3	1,7	2,1	1,9	3,1	3,1	3,7	4,1	3,3	3,4	5,1
Portugal	100	100	100	100	100	3,2	1,1	1,2	1,1	1,3	0,8	0,8	0,2
Canadá	6,3	3	0,8	0,2	0,05	-	-	-	-	-	-	-	-
Australia	7,9	7,1	3,4	1	-	-	-	-	-	-	-	-	-

¹⁵ "Otherwise the countries without a patrimonial tax would apply the tax on free transmissions more efficiently, which does not make any sense. Similarly, the existence of the patrimonial tax does not have a singly positive effect on the administration of the inheritance tax, as they indicate the collection figures; before on the contrary, it can represent a limitation as is evident in the Scandinavian and Germanic countries ." Recuero (1987) p. 13.

Japón	1,5	1,9	4	2,1	1,5	2,5	2,8	5,4	5	4,1	3,6	3,5	3,5
EEUU	6,5	4,5	4,1	2,9	2,1	2,6	3	2,7	2,8	2,8	2,3	2,8	2,2

SOURCE; OCDE, Revenue Statistics 1965/2003.

TABLE 5. DESTINY OF THE COLECCION OF INHERITANCE TAXES.

	1975	1980	1985	1996	1997	2003
AUSTRIA	Compartida	Compartida	Compartida	Compartida	Compartida	Compartida
DINAMARCA	Estado	Estado	Estado	Estado	Estado	Estado
ALEMANIA	Ente subcentral	Ente subcentral	Ente subcentral	Ente subcentral	Ente subcentral	Ente subcentral
SUIZA	Compartida	Compartida	Compartida	Compartida	Compartida	Compartida
ITALIA	Estado	Estado	Estado	Estado	Estado	Compartida
NORUEGA	Estado	Estado	Estado	Estado	Estado	Estado
REINO UNIDO	Estado	Estado	Estado	Estado	Estado	Estado
SUECIA	Estado	Estado	Estado	Estado	Estado	Estado
FRANCIA	Estado	Estado	Estado	Estado	Estado	Estado
ESPAÑA	Estado	Estado	Compartida	Ente subcentral	Ente subcentral	Ente subcentral
HOLANDA	Estado	Estado	Estado	Estado	Estado	Estado
PORTUGAL	Estado	Estado	Estado	Estado	Estado	Estado
AUSTRALIA	Estado	Estado	Estado	NE	NE	NE
CANADA	Compartida	Ente subcentral	Ente subcentral	NE	NE	NE
JAPON	Estado	Estado	Estado	Estado	Estado	Estado
EEUU	Estado	Estado	Estado	Compartida	Compartida	Compartida

NE: This type does not exist in this case.

SOURCE; OCDE, Revenue Statistics 1965/2003.

Finally let us analyse Table 5, in which the rate of territorial, central or sub-central entity is explained, specifying which is assigned with the return of the tax. We could think that this lack of interest and the scarce collection could be due in part to there being a tax assigned to sub-central entities. These would not be able to have sufficient legislative capacity to bring regulations up-to-date and adjust them in accordance with new economic situations. It could even be due to a lack of resources when it comes to administering the tax. The data given in the table explain that this is not the case. In almost all the

cases the distribution of returns corresponds to the State or is shared between the State and the sub-central entities as in the cases of Switzerland and Austria. Only Germany and Spain currently have the collection of these taxes assigned to different entities of the State. Nevertheless, if it is true that those countries which have assigned their returns exclusively or partly to sub-central entities are those in which the tax has less weight in relation to the total of fiscal income, for those where it might be more relevant (France, Japan or US) the collection corresponds exclusively to the central entity.

4.- PROSPECTS OF THE INHERITANCE TAXES IN THE EU COUNTRIES. THE SPANISH CASE.

On reaching this point, we should note that this is a tax of little significance if we concentrate on its statistics, and of enormous diversity if we consider the regulations which govern it in each country. These circumstances show the enormous difficulties we must face if we want to reach some kind of harmonisation for these taxes within the scope of the EU, enabling them, at the same time, to occupy a relevant place in the fiscal systems of these countries.

The consensus is that an area in which the free establishment of people and free circulation of capital is given, the harmonisation of capital gains tax is a necessary, or even indispensable, condition for choices about a place of residence to not be affected by taxes. There is no doubt that in the absence of a basic framework on the main aspects of tax, the process of fiscal competition between territories will occur, provoking a downward bidding for the requirements of these taxes which could even lead to their own disappearance or postponement. In fact, we find ourselves at a moment in time in which the countries of the European Union consider the harmonisation of

their fiscal systems to be a priority, especially for the figures we deal with in which the differences are very significant.

We will try to describe the consequences on the European climate by looking at what is happening in Spain. In this country, the high authority awarded to sub-central entities is causing a very intense process of fiscal competition between regions. The aim of this is to avoid the migration of people and capital and has even resulted in the disappearance of the tax in transfers to very close relatives¹⁶. The following describes this in more detail and describes the parallels with the situation on an EU level.

4.1 THE PROCESSES OF FISCAL COMPETITION

At present inheritance tax in Spain is of state ownership, over which the Autonomous Regions have broad regulatory competencies in their configuration enabling them to adjust the tax in practice with substantial discretion¹⁷. At first it was used as a funding instrument for the Autonomous Regions' expenses, transferring the returns exclusively according to the criteria of the real residence, that is to say that each autonomous region collected the tax through free transfers of its own residents. In future revisions of the system (in order to comply with the principles of autonomy and fiscal responsibility) a new framework was established in which the Autonomous Regions, as well as consolidation of the transfer of returns, would progressively assume authority in respect of their basic resources as rates,

¹⁶ This is the case of the autonomous regions such as cantabria, la rioja and aragon where the tax has been significantly reduced as a consequence of its limiting character with the regions to avoid the emigration of people and loss of capital towards these aforementioned regions.

¹⁷ In opinion of some authors the practical disappearance of limits to the regulatory competencies it can cause a situation in which would be able there to be substantially different taxes according to the Autonomous Community of residence. See in this sense Falcón and Tella (2000), page. 118, Núñez (1998), page 222 and Garcia and Barberán (2003), page 255.

exemptions or reductions on the taxable base. In short it is a question of the application of each region's own regulations in their respective territories and in which the state law would apply in the event of this possibility not being exercised¹⁸.

As a result of this situation and through these extensive regulatory concessions, inheritance tax in Spain responds to a mosaic of different situations which, although they respond to an exact model of tax on hereditary shares, set out different regulations for the key elements of fiscal demand to those the territory will apply. This situation which causes very diverse negative effects such as insecurity on the part of the contributor or an excess of tax, a consequence of determining the behaviour of those who assume greater fiscal savings. From these effects, we should highlight those which affect the principle of equity. People find themselves in the same hereditary position and within the same country but are treated in a different way, that is to say, discrimination of citizens occurs simply due to national territory, when among them a similar payment is being made.

The origin of all these problems seems to be the struggle between different sub-central governments to attract residents to their territories, as this will bring marked taxes on their estates when transfers subject to tax are carried out in those jurisdictions. Furthermore, we should find the reasons for the actions taken by some governments in order to avoid their own contributors changing residence, improving their neighbours' regulations around this tax and, therefore, holding a bid for a reduction of the tax, which, in the future, could have unforeseeable consequences. The question has even greater importance if we consider that the possible change of residence does not only unfold effects with respect to this tax but also with respect to others (whose allocation corresponds to the population) and even to some indexes taken into

¹⁸ This issue has been dealt with in greater detail in Barberan, M.A. (2005), p 95 and subsequent.

account when shaping the funding of these entities through subsidies or participation in the collection of the state taxes.

The information given in Table 6 shows the different relationships to which we previously referred, consequences of the use of regulatory authority, and which assume important changes with regard to state regulation. As we can observe the majority of the Autonomous Regions have introduced changes to improve the fiscal treatment for the transmissions of this type. Only in the cases of Madrid and Valencia have the changes introduced been towards a more rigorous system. Furthermore in addition to the references in the table we should point out a high number of objective reductions related to specific socioeconomic sectors or situations related to each territory. Hence, we could give as an example the benefits in the transmission of agrarian use (Castilla y Leon, Comunidad Valenciana, La Rioja, Islas Baleares,...), reductions in the adquisitions of goods of a historical patrimonial or cultural nature (Cantabria or Cataluña), reductions in compensation for acts of terrorism (Castilla y Leon) or for the donations of parents to children provided that they are for the acquisition of the main home (Aragon, Islas Baleares, Cataluña, La Rioja,...)

TABLE 6 MODIFICATIONS OF AUTONOMOUS REGIONS WITH REGARD TO STATE LAW WHICH REGULATE INHERITANCE TAX.

	Mejora en transmisiones a parientes más cercanos.	Mejora en transmisiones a personas con minervalías	Modificaciones en la tarifa o coeficientes multiplicad*	Mejora en la transmisión de la vivienda habitual.	Mejora en la transmisión del patrimonio empresarial.
ANDALUCIA	SI	SI	NO	SI	NO
ARAGON	SI	SI	NO	NO	SI
ASTURIAS	SI	NO	SI	SI	SI
BALEARES	SI	SI	NO	SI	SI
CANARIAS	NO	SI	NO	SI	SI
CANTABRIA	SI	SI	SI	SI	SI
CASTILLA-LA MANCHA	NO	NO	NO	NO	NO
CASTILLA-LEON	SI	SI	NO	NO	SI
CATALUÑA	SI	SI	SI	SI	SI

EXTREMAD.	NO	NO	NO	SI (1)	NO
GALICIA	SI	SI	SI	NO	SI
COMUNIDAD DE MADRID	(2)	SI	SI(2)	SI	SI
LA RIOJA	SI	NO	NO	SI	SI
MURCIA	SI	NO	NO	NO	SI
COMUNIDAD VALENC.	SI	SI	SI(2)	NO	SI

SOURCE; Own elaboration from www.minhac.es

The normative for inheritance tax contains a series of coefficients which increase the fiscal burden depending on the previous patrimony of the recipient.

- (1) Only if it is considered as a government subsidised property.
- (2) The reductions (according to the groups of family relatives) or the tariff worsen the situation with respect to the state law.

In view of these data it is clear that the fiscal reduction with regard to state norm dominates the changes that have been made and that, as a consequence, the different fiscal agreements between territories for identical patrimonial situations is a reality. The Spanish legislator has wanted to make the principles of autonomy and fiscal responsibility deeper, but in our opinion, has failed to include some type of mechanism that guarantees a comparison between the fiscal demand of different territories. In an ideal situation the tax would be adapted according to the socioeconomic reality of each community, but without this, an escalation of fiscal competition between regions could occur given that in the long term it could have have negative effects on them all.

4.2. PERSPECTIVES OF THE INHERITANCE TAX IN EU COUNTRIES.

Having seen it happen in the case of Spain, it is not difficult to notice the dangers which, in the field of taxation, can involve an intensification of the framework of rights established in the European Union. As we know, the Economic and Monetary Union is a zone with a unique currency inside the unique market of the European Union, where people, merchandise, services and capital circulate without restrictions. In this sense, the fiscal variable will

be, without a doubt, one of the most important factors when deciding the location of people and capital in a context where mobility will increase with time. Because of this it is important for those measures which cause a breakthrough in the harmonisation of fiscal systems, or failing that, the establishment of some minimum levels of tax demands, to be expedited for community members.

Nevertheless, there are some taxes for which that approach seems more urgent. Such is the case of the introduction of the tax on inheritances, and which we have already seen in detail the enormous differences existing between the different countries. This permanent diversity has come to exist in the EU since the establishment of these taxes, linking the nationals of each country in a peaceful context inasmuch because the migratory processes resulted more complex; the legal framework did not make it easy to change residence, the determining variable of the fiscal obligation to pay tax in free transfers of wealth. Nevertheless, nowadays these restrictions do not exist and citizens of the European Union are able to freely make decisions as much on their residence as on hereditary elements, a choice upon which the fiscal variable will be a determining factor. Given these circumstances, we can find ourselves in a situation very similar to that of Spain, where different countries can be seen to be involved in a war of offering the most favourable fiscal framework and with it avoiding the loss of people and capital from their regions, forcing a backward step for inheritance tax and gifts and possibly resulting in the tax being applied at mere token levels.

In our opinion, the establishment of some kind of harmonisation on an EU level for the demand of this type of tax is a necessity. A single tax for all countries in the EU is not necessary, nor possible at present, and given that the social and cultural differences between them are still very intense, different processes can be justified but similar levels of global demand should be considered. This would be a matter of adequately combining diversity and fiscal responsibility, that is to say that the difference would not be utilised as a comparative advantage for the purpose of fiscal competitiveness.

The Spanish experience, though on a different level, warns us of the dangers into which we fall if we do not take this route¹⁹. Firstly, reducing collections at a moment in which continuous liberal reforms have diminished public sector income and secondly, from the point of view of the fiscal system's equity, relaxing the taxation of one of its main back-ups, such as inheritance tax, in favour of income and consumption. Let us not forget that inheritance tax is known to be an important complement to traditional taxes on income and consumption²⁰, which begin to give symptoms of exhaustion given the high types of tax applied to them and their harmful effects on work and economic growth.

5. CONCLUSIONS.

The objective of this article is to give a view of the situation of inheritance tax in the scope of the European Union and of the possible dangers for the immediate future with regard to this type of tax. In this sense the Spanish experience can be an interesting reference.

The process of introducing a tax on inheritance and gifts offers a broad diversity in EU countries, differences that affect not only the design of the essential elements of the tax but also the model of taxation as in the case of Ireland, Great Britain and Denmark. Nevertheless, we find some similarities

¹⁹ In Barberan, M.A. (2003), page 74 are developed these reflections more extensively, doing incident in the risks that notifies the European Commission in the Spanish situation.

²⁰ Numerous authors adhere to this idea, thus Due (1990), Rosen (1987), Jarash (1972), Musgrave (1992), Neumark (1974), and Shoup (1980) and, in Spain, Garcia V (1995), Arias (1988), Fuentes Quintana (1990) among others. In the same sense argues the Inform Meade, (1980), pág 119, emphasizing the possibilities for the obligation that offers the patrimony, "by very well that a system of imposition on the income be established or the consumption, the equity requires that the patrimony in itself be included in the base of the progressive imposition."

between the majority of the countries, for example, the comparison between inheritances and gifts or the benefits received by close members of the family.

According to the statistics analysed we can confirm that, from a collective point of view, current taxes on the free transfers of wealth offer poor results. From a dynamic perspective their yields have been reduced at an alarming rate in the last few decades, restricting the performances entrusted. Thus, contributions to the redistribution of wealth, the efficiency of the fiscal system or equity are much scarcer.²¹

In view of this situation, the future for this tax in the European Union does not look good. The new regulations established in the EU which favour a system of free circulation of people and capital will determine tax reforms and, in particular, the reform of the taxes present in the subject's residence is a determining factor for obtaining collections. In this sense it is not difficult to forecast that reforms which take place will do so in a context of fiscal competition between countries (with the aim of hanging on to wealthy residents) and with this a reduction in collections not only of these taxes but also of others which use the criteria of effective residence. This is what is happening in Spain, where the tax is assigned to sub-central governments who have extensive competition at their disposal for their quantisation, shows some similarities with the European context. The results of this show our fears: that the tax is taking a backward step and a hidden process of competition has been established in order to avoid the migration of rich taxpayers towards other territories that are more fiscally appealing²².

All things considered, in our opinion, community authorities must establish some criteria that guarantee a certain level of demand of these taxes which affect the special characteristics of the national organisations but offer

²¹ For that reason some of the alternatives that have been given to the present taxes on the free broadcasts of wealth would be that of their total disappearance. *Consider* in this sense the work of Checa (1996) in Spain and the contributions of Rosen (1999), Bartlett (1997), Slemrod (2000) or Gale, Hines y Slemrod (2001).

diversity between them as well as common aspects. If this is not carried out, we can see ourselves immersed in a process of fiscal competition which could see the complete disappearance of taxes on inheritance and gifts within the European Union.

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²² In Barberán M.A. (2003), p 74 -these reflections are developed more widely, emphasising the risks that the European Commission warn against regarding the Spanish situation.

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