

Interpretation of the gift and inheritance taxes and the underlying civil law by Belgian tax authorities



Separation of competences:

Civil law = Federal authority

Gift and inheritance taxes = Regions ¬
(Flemish, Walloon and Brussels Region)



Regions: rate, tax base and exonerations (incl. reductions)

Federal authority (special majority (!)):

taxable matter and taxpayer (?)



Different tax authorities (federal and Flemish) and tax ruling services (federal and Flemish) (executive power)



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"What legal limits to the interpretation and application of the regionalized gift and inheritance taxes and the federal civil law can be identified and must be respected in favour of an increased level of legal protection of Belgian taxpayers by the various Belgian tax authorities, including tax ruling services, in the context of estate planning?"







Legal limits:

- 1. Relationship between civil law and gift and inheritance taxes (in particular)?
- → Autonomy of tax law in relation to civil law?
 - → impact of regionalization of gift and inheritance taxes?
 - → impact general anti abuse rule?

2. Limits in abstracto

- → Principle of legality (method of interpretation)
- → Principle of legality ↔ principle of equality
- → General principles of proper administration

3. Limits in concreto

→ case studies



Additional recommendations for an increased level of legal protection of taxpayers?

- Reform tax ruling services?
- Reform separation of competences ?



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