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TAX MATTERS ON HEREDITARY SUCCESSION A FAMILY ENTERPRISE THE INFLUENCE ON ITS CONTINUITY AND DEVELOPMENT

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Introduction

A good number of Spanish companies consider taxes as one of their main problems, especially in the case of the hereditary succession of a family enterprise.

Between 75 and 90% of Spanish companies are family enterprises, and it is estimated that in the next several years more than half will pass from one generation to the next in terms of ownership, and that their orientation and circumstances will be influenced by Spanish law regarding the Successions (or Death) Tax.

The transfer of the ownership and management of a family enterprise from one generation to the next within the same family is one of the problems that has the greatest influence on its continuity as a family enterprise.

This report, based on information obtained from a sampling of 49 individuals whose circumstances are nearing a hereditary succession, and who have more decision-making power than the average owner working in a family enterprise, presents an analysis of the economic importance of the Inheritance Tax, its possible consequences on maintaining the strength of family enterprises, and some of the attitudes of these people about the continuity and development of their companies.

The results of the analysis indicate that there are two difficult and significant challenges regarding the development of such an important part of Spanish business activity as that formed by family enterprises.

The challenge lies in a possible change in the tax laws will favor hereditary succession so that family enterprises are strengthened in their intense struggle for advantages in order to compete, as well as the challenge that the companies are aware of and want to prepare for the succession in advance with sufficient lead time.

Some of the causes of the low survival rate of family enterprises can be found in the all too common concurrence of paying inheritance taxes during a time in which many family enterprises have been weakened and the common reluctance of the owners to delay the succession.

1. Analysis of the Sampling

The information on the sampling was obtained from a questionnaire sent to a group of 210 people, from which 49 valid responses were obtained (23.3% response rate).

The group of 210 people was made up of business people who attended one or another of the seminars on the Family Enterprise (FE) organized by the IESE “Family Enterprise” Chair between January and March 1989¹.

The majority of these people were previous participants in the IESE Higher Training Programs (programs designed for company directors and upper-level executives with more than five years experience in these job positions).

The 49 valid responses correspond to people who work for a FE, being total or partial owners.

The company data are the following:

Company Data:

Table 1.1

Sales Volume in Millions of Pesetas

Sales in Millions of Pesetas	<200	200-500	501-1000	1001-5000	>5000	Total
Number of Companies	4	6	14	18	7	49
Percentage of the Sampling	8.2%	12.2%	28.6%	36.7%	14.3%	100%
Idem Considering only those with more than 200M.		13.3%	31.1%	40%	15.6%	100%

Table 1.2

Year of Founding

Year of Founding	Before 1925	1925-1950	1951-1975	After 1975	Total
Number of Companies	16	11	15	7	49
Percentage of the Sampling	32.6%	22.4%	30.6%	14.3%	100%

Table 1.3

Generational Level of the Company

Generation	1st	2nd	3rd	4th	Total
Number of Companies	24	18	6	1	49
Percentage of the Sampling	49%	36.7%	12.2%	2.1%	100%

¹ The titles of these seminars were: “The Family Enterprise: Its Competitiveness in the Immediate Future”, “Fiscal Incidence in the Succession of a Family Enterprise”, “Strategic Managements in the Family Enterprise”.

Table 1.4

Patrimonial Value of the Company

Patrimonial Value	<100 Million	100-500 Million	501-1000 Million	1001-5000 Million	5001-10,000 Million	>10,000 Million	Total
Nº of Companies	8	25	8	6	1	1	49
% of Sampling	16.4%	51%	16.4%	12.2%	2%	2%	100%
Average Value in millions of pesetas	51	238	697	2,716	8	26	1,27

(Patrimonial value of the company calculated as the difference between its Real Assets and its Demandable Liabilities)

From a 1988 sampling of 529 Spanish FE's with business volumes of more than 200 million pesetas, the classification with regard to their sales volumes, the year of foundation and the generational level of the company was the following (Gallo y García Pont, 1989):

Sales Volumes in Millions of Pesetas	200-500	501-1000	1001-5000	>5000	Total
Percentage of FE in Spain	45%	27%	24%	4%	100%

Year of Founding	Before 1925	1925-1950	1951-1975	After 1975	Total
Percentage of FE in Spain	4.1%	11.1%	49.7%	35.1%	100%

Generation	1st	2nd	3rd	4th	Total
Percentage of FE in Spain	75%	16%	8%	1%	100%

The foregoing data indicate that the sampling is made up of large-sized companies that have been in business longer and have passed through more generational changes in ownership and management than the average Spanish FE.

The data for the people who answered the questionnaire are the following:

Table 1.5

Age

Age	Nº of Cases	%
From 25 to 35 years	4	8.2
From 36 to 50 years	16	32.7
From 51 to 55 years	8	16.3
From 56 to 60 years	4	8.2
From 61 to 65 years	8	16.3
More than 65 years	9	18.3
Total	49	100.0

Table 1.6

Company Position

Company Position	Nº of Cases	%
President	10	20.4
Administrative Board Member	4	8.2
General Manager	31	63.3
Department Director	3	6.1
General Management Assistant	1	2.0
Total	49	100.0

Table 1.7

Percentage of Their Company Ownership

Ownership Percentage	Nº of Cases	%
Less than 10%	2	4.1
From 10% to 50%	22	44.9
From 51% to 90%	13	26.5
From 91% to 100%	12	24.5
Total	49	100.0

Table 1.8

Year of Obtaining Ownership Share

Year	Nº of Cases	%
Before 1951	3	6.1
From 1951 to 1960	12	24.5
From 1961 to 1970	16	32.7
From 1971 to 1980	12	24.5
After 1980	6	12.2
Total	49	100.0

Table 1.9

Age Upon Obtaining Company Ownership Share

Age	Nº of Cases	%	From Company Founders
From 20 to 25 years	12	24.5	9
From 26 to 30 years	6	12.2	6
From 31 to 35 years	15	30.6	2
From 36 to 40 years	9	18.4	5
From 41 to 45 years	2	4.1	1
From 46 to 50 years	4	8.2	1
From 51 to 55 years	--	--	--
From 56 to 60 years	1	2	--
Total	49	100.0	24

The foregoing data indicate that:

- A high percentage of respondents (42.8%) is more than 55 years old. That is, they are, in average terms, people who are “closer” to the natural age of transferring their assets on to their heirs.
- Almost all of them (91.9%) hold positions in the company (President, Administrative Board Member and General Manager) with the potential capacity to strongly influence possible decisions, such as selling company shares, for the purpose of changing the tax level involved in the succession.
- A high percentage (51%) own more than 50% of the company, giving them the power to make decisions by absolute majority.
- The majority of them (87.8%) gained ownership in the company before 1980, affording them available time (more than 8 years) to think about and work on the financial challenge of transferring ownership of their company on to their heirs.
- A considerable percentage (51%) gained company ownership through the inheritance of company shares, which allows the presupposition of a certain experience in the financial situation.

The characteristics cited² indicate that the rest of the information provided by the questionnaire may be of even greater significance, because it has been provided by people who are closer to hereditary succession and who have greater decision-making power.

2. The Successions Tax in Spanish Legislation

In the current Spanish legislation, the “tax rate” for hereditary succession is variable and depends on the following factors³:

- Total value of the inheritance (greater value, greater tax). The company to be inherited is valued as “Real Assets minus Demandable Liabilities”.
- Number of heirs (fewer in number, greater in tax).
- Heir’s kinship relation (the more distant the relation, the greater the tax).
- Heir’s preexistent patrimony (larger inheritance, greater tax).

Applying the regulations to each one of the sampling cases, supposing that the hereditary succession occurred at the beginning of 1989, and that the sum total of the inheritance was only that part of the patrimonial value of the company owned by the person who answered the

² On the other hand, they are coherent with the origin of the whole sample of the 210 persons (former IESE students, seminar themes, etc.).

³ A Table in Appendix 1 calculates the various tax rates.

questionnaire⁴, the distribution by groups of tax rates and by quantities in millions of pesetas would be the following:

Table 2.1

Tax Rate

Tax Rate (In percentages)	0-10	11-10	16-20	21-25	26-30	31-35	36-40	Total
Nº of Cases	9	7	10	5	11	5	2	49
% of Cases	18.4%	14.3%	20.4%	10.2%	22.4%	10.2%	4.1%	100%

Table 2.2

Amounts to be Paid (In Millions of Pesetas)

Amounts to be Paid	0-5	5-10	10-25	25-50	50-100	100-200	Total
Nº of Cases	7	5	8	9	10	3	42
% of Cases	14.3%	10.2%	16.3%	18.4%	20.4%	6.1%	85.7%

Amount to be Paid	0-5	5-10	10-25	25-50	50-100	100-200	Total
Averaged in Millions of Pesetas	1.71	6.73	14.76	38.21	66.74	129.33	37.21

For the seven remaining cases (14.3% of the sampling) the amounts to be paid in millions of pesetas would be:

Amounts:	290	450	518	660	702	2,64	4,862
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A less than detailed analysis of Table 2.2 (Amounts to be paid) could lead to false impressions about the importance of said amounts in relation to the continuity and development of the FE. In fact, it can be assumed that in a large number of cases, the amounts are less than 10 million. However, it must be taken into account that:

- The cases (14.3%) in which the amount to be paid does not reach 5 million pesetas (see **Appendix 2**), correspond to a group of companies whose patrimonial value (121.1 million average) is lower than the sampling average, and to persons who have an ownership share percentage (27.2% average) that is quite a bit smaller in comparison to the sampling.
- The cases (10.2%) in which the amount to be paid is between 5 and 10 million pesetas (see **Appendix 2**), correspond to companies whose patrimonial value (99.2 million average) is even lower than the aforementioned ones, but to persons who have a larger ownership share (55.4% average).

On the other hand, it must not be forgotten that if all of the shareholders of each company in the sampling were in the same situation with respect to number and group of heirs, etc., as the person who responded to the questionnaire, two out of three companies, as Table 2.1 shows, would be in

⁴ In the following considerations it is important to keep in mind that, given the characteristics of the sampling, in a possible succession situation by inheritance the real tax rate in many cases would logically be superior to those indicated in the table.

a tax rate bracket superior to 15% of their patrimonial value, a considerable percentage and one that would not be easy to cover without sapping some of the company's strength.

Two alternatives have been analyzed with respect to the possibility that the FE would continue to be owned by family members after the succession: Payment of the tax with dividends distributed by the FE, and payment with other liquid assets.

Supposing that all of the shareholders were in the same cited circumstances, and they want to transfer the company at the same time, and that the heirs are thinking of paying the succession tax with dividends distributed by the company (subject to taxes in their turn), then the necessary dividends (expressed as a percentage of the company resources) with respect to the various tax rates would be the following⁵:

Table 2.3

Tax Rate

Tax Rate (In Percentages)	5	10	15	20	25	30	35	40
Dividend (as a % of company resources)	9.3	18.5	27.8	37.0	46.3	55.6	64.8	70.0

In the case that the shareholders of a company were in the same situation and that they intended that their heirs would be able to pay the company's succession tax with other liquid assets of the inheritance, the value of these said assets (expressed as a ratio of the company patrimony) with respect to the various tax rates would be the following⁶:

Table. 2.4

Tax Rates

Tax Rate (In Percentages)	5	10	15	20	25	30	35	40
Value of Assets (in N° of company successions)	0.05	0.11	0.18	0.25	0.33	0.43	0.54	0.67

Both Tables (2.3 and 2.4) show how quickly the increases in the dividend percentages and the volume of liquid assets raise the tax rate.

To pay the tax with FE resources, the heirs, depending on the circumstances, would have to make decisions with respect to:

- Increasing the distribution of dividends, reducing the quantities destined to increasing company resources.
- Searching for an increase in company profits in the short term, at the possible expense of long term benefits, in order to increase the dividends.
- Selling company assets.

⁵ The "dividend" (expressed as a percentage of the company resources) is equal to the "tax rate" (expressed as a percentage) divided by 0.54.

⁶ The "value of the assets" (expressed as a ratio of company patrimony) is equal to the "company patrimony" multiplied by the "tax rate" divided by the difference between 100 and the "tax rate".

It is evident that decisions of this kind have a clear impact on the continuity of the FE, given that in some cases their financial stability would be weakened; some would embark on the road to losing some of their competitive advantages, while others would be prevented from making the necessary investments for future growth.

Moreover, decisions such as the selling of shares between family members, to the end that those heirs with fewer resources would be able to pay the tax, normally give rise to a lot of tension and could result in power passing to those family members who are less capable managers. The decisions to sell part of the company shares to third parties could cause the company to lose its FE character⁷.

The alternative of the owner creating additional patrimony in the form of liquid assets, of the quantity indicated in Table 2.4, could become illusory, given that what normally happens in FE's is that their development requires reinvestment of most of the profits that they generate, especially in the case of first generation companies.

The different studies conducted on the "The FE Life Cycle" (Ward, 1987) illustrate that the period during which a company is approaching a generational succession is normally very problematic, especially in the case of companies passing from founders to first generation heirs (Schein, 1987). During this stage, the FE frequently requires a strong strategic reorientation with respect to products, markets, technologies, etc., as well as an organization of key people for the infusion of new knowledge and new goals to revitalize the company, which in turn requires an injection of capital.

The current inheritance tax system is not conducive to solving these problems, given that even if the government were to allow time payments of the tax (1), it does not consider other types of alternatives, such as realistically offering relief when companies are financially weakened by the inheritance tax payment while at the same time forced to fortify their strategic management, or aiding those FE's that in time would manage to reorient themselves.

3. Attitudes of the Business People: FE Tax Matters and Continuity

The attitudes of the business people surveyed about the situation described in the foregoing section can be grouped into three clearly different trends:

- Not continue the FE, or terminate their relationship with it.
- Continue the FE without special concern for the tax matters involved in hereditary succession.
- Continue the FE and program the hereditary succession for the next generation.

"Not Continue" Trend:

With respect to this trend, the questionnaire posed two different questions. The first referred to how often they had considered selling their shares to people outside the family. The second

⁷ Even though it is true that circumstances such as the last two cited can be beneficial for some FE's in the sense that they represent an opportunity to perhaps make much needed reforms, it cannot be overlooked that a company's succession, with its attendant emotionality and urgency, is normally not the best time to implement strategic reorientations.

asked how often they had considered other forms of not continuing the FE's activity. The information provided by the questionnaires was the following:

Table 3.1

Considered N° of Cases % selling shares		
Never	27	55.1
Sometimes	14	28.6
Frequently	8	16.3
Total	49	100

Table 3.2

Considered other forms N° of Cases % of not continuing		
Never	39	79.6
Sometimes	6	12.2
Frequently	4	8.2
Total	49	100

Among the eight people who answered that they “frequently considered selling their shares” (Table 3.1) and the four who “frequently considered other forms of not continuing” (Table 3.2), there was only one person whose answer to both questions was “frequently” (see Appendix 3). The remaining percentage of people (11 people, 22.4% of the sampling), who would “not continue” the FE or their relationship with it is rather considerable.

Table 3.3

Not Continue	Continue	Total
Frequently considered selling shares or other forms of not continuing as part of the company	Either never or only sometimes considered not continuing	
Number of Cases	Number of Cases	Total Cases
11	38	49
Percentage	Percentage	Total %
22.4	77.6	100.0

Below is a comparison of some of the characteristics and circumstances of these 11 people with those of the 38 who answered “Never” or “Sometimes”:

Even though the small number of those surveyed cannot lead to generalized conclusions with respect to FE's as a whole, the sampling analyzed does show that those in the “not continue” group share some similar overall characteristics with those who stated they would “continue.” For this reason, it would be interesting to ascertain if the following differences which appear in Table 3.4 are also true of FE's as a whole.

In this sampling, the “not continue” group comprises people who:

- Are older (4.8 years older than the sampling average).
- Own a smaller share of the FE (with less than a 50% share in the company in 63.6% of the “not continue” cases as opposed to 44.7% of the “continue” group).
- Have had possession of their company shares the longest (not one of the “not continue” cases inherited after 1980).

Table 3.4

	«Frequently» (11 cases)	«Sometimes. Never» (38 casos)	Sample Total (49 cases)
Average Age (in years)	56.5	51.7	52.8
Company Value (in millions of pesetas)			
Less than 100	18.2%	15.8%	16.4%
100-500	45.5%	55.3%	51.0%
501-1.000	27.3%	10.5%	16.4%
1.001-5.000	—	15.8%	12.2%
5.001-10.000	9.0%	—	2.0%
More than 10.000	—	2.6%	2.0%
Total	100.0%	100.0%	100.0%
Ownership Share			
Less than 10%	—	5.2%	4.1%
From 10% a 50%	63.6%	39.5%	44.9%
From 51% a 90%	9.1%	31.6%	26.5%
From 91% a 100%	27.3%	23.7%	24.5%
Total	100.0%	100.0%	100.0%
Year of Obtaining Company Share			
Before 1951	9.1%	2.6%	6.1%
Between 1951 and 1960	18.2%	26.3%	24.5%
Between 1961 and 1970	36.3%	31.0%	32.7%
Between 1971 and 1980	36.3%	23.7%	24.5%
After 1980	—	15.8%	12.2%
Total	100.0%	100.0%	100.0%
Generational Level of the Company			
1st	54.5%	47.4%	49.0%
2nd	36.4%	36.8%	36.7%
3rd	9.1%	13.2%	12.2%
4th	—	2.6%	2.1%
Total	100.0%	100.0%	100.0%
Heirs (1)			
Group II	90.9%	81,6%	83,7%
Average Number of Heirs	3.5	3,2	3,3
Group III	9.1%	18,4%	16,3%
Average Number of Heirs	14	9	9,6
Tax Rate			
Less than 11%	9.1%	21.0%	18.4%
Between 11% and 15%	27.2%	10.6%	14.3%
Between 16% and 20%	18.2%	21.0%	20.4%
Between 21% and 25%	18.2%	7.9%	10.2%
Between 26% and 30%	18.2%	21.0%	22.4%
Between 31% and 35%	9.1%	13.2%	10.2%
Between 36% and 40%	—	5.3%	4.1%
Total	100.0%	100.0%	100.0%

- (1) Group II: Descendants older than 21 years. Parents, Aunts/Uncles, Grandparents, etc., Spouses.
 Group III: Brothers/Sisters. Nieces/Nephews. In-Laws, Relatives by Marriage & their Descendants.
 Group IV: Cousins, Children of Nieces/Nephews, Distant Relatives, Non-Family Individuals.

In generalizing about these differences, it might be said that the “not continue” people are not distinguishable from the rest because of the amount of succession tax (their corresponding tax rates are similar to those of the sampling average), but rather, perhaps, because they are “tired” of the effort of dealing with the difficulties involved in managing a company. “Tired”, probably, for such reasons as:

- Their age and the time they have dedicated to the FE.
- The difficulty in managing the company the way they think it is advisable because their minor company share does not give them the necessary authority to do so.
- The lack of heirs capable or willing to continue the FE (54.5% of the “not continue” cases correspond to first generation FE’s and 90.9% of them have children).

It can be seen in the sampling analyzed that a large percentage of the people (22.4% Table 3.3) are in the “not continue” group for reasons related to the tax matters involved in the succession, while at the same time, the sampling seems to indicate that these tax matters most influence those business people qualified here as “tired.” The concurrence of their “tiredness” with a financial situation that they feel is inadequate or untenable is possibly a good explanation for this tendency, and it agrees with the available data on the average lifespan of the FE⁸.

Finding different and alternative tax regulations which help to eliminate or alleviate this said concurrence, and inspiring the FE owners by lessening their future and possible exhaustion with these tax matters, would aid in the continuity and survival of the FE’s.

“Continue” Trend:

The people (Table 3.3) who stated their intention to “continue” are divided into two groups, those who said they were not especially concerned about the tax matters involved and those who indicated that the said succession was being planned for in detail.

Table 3.5

To Continue: Either never or only sometimes considered selling forms of not continuing as a part of the FE.		
		shares or other
Have begun to plan and program in detail for the eventual hereditary succession of the FE.		
YES		NO
Number of Cases	Number of Cases	Total Cases
27	11	38
Percentage of Sampling	Percentage of Sampling	Total %
55.4%	22.4%	77.6%

⁸ The data available on the survival of FE’s, and on continuing as an FE, clearly indicate that their average expected lifespan is short (24 years in the United States. Alcorn, 1982) and few survive into the second generation (30% in the United States. Dyer, W.G., 1986, and Ward, J., 1988).

The comparison of the circumstances of the 11 people who are not concerned about the tax matters (see **Appendix 4**) with the 27 who are planning for it in detail (see **Appendix 5**) and with the sampling as a whole, is the following:

The foregoing Table (3.6), even with the limitation that the reduced size of the sampling imposes on reaching conclusions, indicates that both groups have distinct characteristics.

Those who are “not concerned” about the tax matters involved in a succession, in this sampling, are people who:

- Are younger (average of 12.1 years less) than those who “are planning” the succession. (18.2 years younger if the two very much older persons, “keys” N° 20 and N° 28 in Appendix 4, are not included).
- Own significantly smaller property shares (company shares are less than 50% in 72.7% of the “not concerned” cases as opposed to 39.6% of the “are planning” cases) in FE’s of lesser value (less than 500 million pesetas in 81.8% of the “not concerned” cases as opposed to 63% of the “are planning” cases).
- Came into their company shares much more recently (45.4% did so after 1980).
- Their FE’s tend to be companies that have already been passed on from the founding generation (72.7% of the “not concerned” cases as opposed to 44.7% of the “are planning” cases).
- Their heirs tend to pertain to Group III.
- They are in a lower tax rate bracket (a tax rate of less than 16% corresponds to 54.5% of the “not concerned” cases as opposed to 22.2% of the “are planning” cases).

To expand the actual current knowledge about FE’s, it would be interesting to delve into the reasons for the passive attitude on the part of the “not concerned” cases in the face of a reality that is as important for the FE as the tax matters involved in its hereditary succession.

To what degree is it due to a lack of knowledge, or on the contrary, to the fact that, having been heir to the shares and having already passed through the process of succession, they feel they already have the experience and the know-how to do it?

Is it perhaps due to a conformist attitude that leads to the belief that no one can do anything except wait for new legislation to evolve in time, or that those successions that must take place are already being handled by those people who own majority shares in the FE?

To what degree is it due to a person’s actual youth that would lead them to believe that they have lots of time before they are presented with a succession situation? To what degree is it due to a frequent reluctance to think about death?

Do the people in the FE begin to “plan in detail” for their hereditary succession when their tax rate for the said succession exceeds certain determined amounts?

Table 3.6

	Not Concerned (11 cases)	Yes, Are Preparing (27 cases)	Sample Total (49 cases)
Average Age (in years)	43.1 (1)	55.2	52.8
Company Value (in millions of pesetas)			
Less than 100	27.3%	11.1%	16.4%
100-500	54.5%	51.9%	51.0%
501-1,000	18.2%	11.1%	16.4%
1,001-5,000	—	22.2%	12.2%
5,001-10,000	—	—	2.0%
More than 10,000	—	3.7%	2.0%
Total	100.0%	100.0%	100.0%
Ownership Share			
Less than 10%	—	7.4%	4.1%
From 10% to 50%	72.7%	22.2%	44.9%
From 51% to 90%	18.2%	37.0%	26.5%
From 91% to 100%	9.1%	33.4%	24.5%
Total	100.0%	100.0%	100.0%
Year of Obtaining Company Share			
Before 1951	—	3.7%	6.1%
Between 1951 and 1960	18.2%	29.6%	24.5%
Between 1961 and 1970	9.1%	40.7%	32.7%
Between 1971 and 1980	27.3%	22.3%	24.5%
After 1980	45.4%	3.7%	12.2%
Total	100.0%	100.0%	100.0%
Generational Level of the Company			
1st	27.3%	55.6%	49.0%
2nd	54.5%	29.6%	36.7%
3rd	18.2%	11.1%	12.2%
4th	—	3.7%	2.1%
Total	100.0%	100.0%	100.0%
Heirs(1)			
Group II	63.6%	88.9%	83.7%
Average Number of Heirs	1.9	3.6	3.3
Group III	36.4%	11.1%	16.3%
Average Number of Heirs	12.7	4	9.6
Tax Rate			
Less than 11%	36.3%	14.8%	18.4%
Between 11% and 15%	18.2%	7.4%	14.3%
Between 16% and 20%	18.2%	22.2%	20.4%
Between 21% and 25%	9.1%	7.4%	10.2%
Between 26% and 30%	9.1%	26.0%	22.4%
Between 31% and 35%	9.1%	14.8%	10.2%
Between 36% and 40%	—	7.4%	4.1%
Total	100.0%	100.0%	100.0%

(1) If the two «key» cases N° 20 and N° 28 are excluded (Appendix 4), the average age for the 9 remaining persons is 37 years.

Is it perhaps because these people have a considerable inheritance, over and above the FE itself?

Ignoring the probable fact that some of the people with the “not concerned” attitude will in time become part of the “not continue” FE group, it is important to keep in mind other possible connotations of the “not concerned” attitude:

“To plan in detail” for the tax matters involved in the succession of the FE represents thinking ahead about the transmission of ownership. It signifies, therefore, studying and finding answers to questions such as: What family members should inherit? All of them? Only some of them? In what proportions, equal or different? With what type of contractual relationships among the future owners?

Given that possession of company ownership entails the right to economic benefits and the power to manage the company, “to plan in detail” for the tax matters involved in the FE’s succession also usually means thinking ahead about its future form of management: What will be its chain of command? Who will have the power, how will it be acquired, how will it be shared? What can family members expect in economic terms?

In non-family businesses, as opposed to FE’s, it is normally not a conflictive issue to speak about retirement or who will take over as the head of the organization. The “not plan in detail” attitude can also be due to the resistance of some people to think about when they will be substituted by others⁹, or in the attitude of these others, normally close family members, who don’t want to appear as though they are anxious for the substitution thus introducing subjects that can disrupt family harmony.

As is easy to appreciate, the people in the company are falling into the deep “traps” of the FE itself (Gallo, 1985) insofar as the “not concerned” attitude is a manifestation of the most profound postures, such as not wanting to investigate and arrive at solutions about the succession of property and power, or the strategic adaptation of the FE to the developments around it, or the adaptation of its organization to the circumstances of the age, capacity, etc. of the people which comprise it.

The inability to recognize that the FE is in danger of falling into characteristic “traps” such as confusing the bonds of love and affection (characteristic of the family) with contractual ties (characteristic of the company); the incapacity to accept being the owner; putting the stability of the family ahead of the need to change the company in order to adapt it to its environment; or, even more serious, to feel that one is “immobilized” in the face of previous errors as frequently occurs with owners of FE’s, is to put the FE on the road to becoming part of the group that does not survive.

The challenge in this sense would be to find regulations on the tax matters involved in hereditary succession that motivate business people to think about and resolve the problems indicated at a much earlier time. A rather difficult challenge, in that it would mean a basic change in the objectives of the tax matters involved, a change from being solely a tax collection to becoming the motivation for rational evolution of the FE’s, but one that would be worthwhile and that would have a positive influence on the development of the economy through fostering the creation and satisfactory competitive development of the majority of the companies in the country.

⁹ There is more information on this point in Appendix 6.

4. Final Comments

Compared to the total tax income, the total tax on hereditary successions in Spain is very small¹⁰.

Table 4.1

	1970	1975	1980	1981	1982	1983	1984	1985	1986	% 80-68 Average
Total Tax Income	443.58	1,179.64	3,660.8	4,332.65	5,043.4	6,200.2	7,334.02	8,047.88	9,706.7	---
Idem as % of GDP	17.2	19.6	24.1	25.5	25.8	25.8	29.2	28.8		21.67
Successions Tax Income	3.79	9.36	14.92	19.13	15.75	21.76	31.1	33.74	39.48	---
Idem as % of Tax Income	0.85	0.79	0.41	0.44	0.31	0.35	0.42	0.42	0.41	0.39

Figures in thousands of millions of current pesetas.

Source: "Statistiques des recettes publiques des pays membres de l'OCDE, 1965-86," OCDE, 1987.

If it is taken into account that the figures in Table 4.3 are overall for "acquiring lucrative title to all types of assets and rights without distinction," the quantities that correspond to company successions would be even smaller, hence the tax is of little interest from the perspective of its quantitative importance (Pablos Escobar, 1985).

The social advantages of company succession taxes, with regard to their influence on the redistribution of income, are clearly surpassed by the disadvantages that arise within such an important part of the Spanish economy as that formed by family businesses, which are generating between 75% and 90% of the employment as well providing similar percentages for production and exports (Gallo and García Pont, 1989).

In the foregoing sections it has been analyzed how, in a sampling of larger-sized FE's with more years in business than the average Spanish FE, the tax matters involved in hereditary succession could be influential in:

- Financially debilitating them, with the consequence of losing competitive advantages.
- Demotivating the owners with respect to their efforts to continue with the development of the FE.

It is not surprising that some company owners are strongly critical of the tax system, voicing the opinion that it is the "deepest pitfall for the FE in Spain," that it "creates a situation of unfair competition among the companies that operate in Spain, favoring the non-family

¹⁰ Appendix 7 shows similar information for various different countries.

businesses that do not suffer this type of problem, or else they are presented in a very different manner,” that “in a situation of internationalizing business activity, it gives rise to considerable inequalities among the FE’s in different countries, depending on what their regulations are with respect to the taxes involved in hereditary succession.”

Furthermore, when the company passes from one generation to the next, FE’s are often find themselves in a critical situation due to the frequent weakening of their strategy and their managerial capacity, with relatively few companies able to overcome this crisis and continue their development.

In this situation, added to the difficulties of correct “strategic management” are the “emotional” difficulties of the members of the different generations of the family, which normally coincide with the “economic” difficulties in paying the tax due.

As a consequence of all of these circumstances, it would appear that it would be of considerable benefit to the country to find regulations that would:

- Facilitate extending the amount of time, both before and after, between the succession of the FE and the payment of the inheritance tax, taking advantage of the phases during which the company’s competitive edge is at its strongest.
- Motivate the FE owners to handle the succession that would increase the competitiveness of their companies, financially benefitting those who know how to development avenues for transferring power and property to those who will better guarantee the survival of the FE.

Appendix 1

Successions Tax

- Degree of Kinship
- Group II: Descendants older than 21 years, Parents, Aunts/Uncles, Grandparents, etc., Spouses.
 - Group III: Brothers/Sisters, Nieces/Nephews, In-Laws, Relatives by Marriage and their Descendants.
 - Group IV: Cousins, Children of Nieces/Nephews, Distant Relatives, Non-Family Individuals.

Total Inheritance Value (Millions of ptas.)	Group of Heirs	Group II				Group III				Group IV			
		0-50	50-250	250-500	> 500	0-50	50-250	250-500	> 500	0-50	50-250	250-500	> 500
2 Million	Preexistent Patrimony of Each Heir (Millions of pesetas)	0-50	50-250	250-500	> 500	0-50	50-250	250-500	> 500	0-50	50-250	250-500	> 500
	Number of Heirs (assuming they inherit "equal parts")	%	%	%	%	%	%	%	%	%	%	%	%
	1					7.6	8	8.4	9.2	16.1	17	18	19.4
	2									15.3	16.1	16.8	18.4
5 Million	1	5.1	5.4	5.6	6.1	11.3	12	12.5	13.6	18.7	19.6	20.6	22.5
	2	1.5	1.6	1.7	1.8	7.6	8	8.3	9.1	16.7	17.5	18.3	20
	5									15.3	16.1	16.8	18.5
	10									15.3	16.1	16.8	18.5
10 Million	1	8.5	9	9.5	10	16	16.5	17.5	19	23	24	25	29.5
	2	5	5.4	5.6	6	11	12	12.5	14	19	20	21	22.5
	5			0.5		6	6.5	7	7.5	16	17	18	20
	10									15	16	17	18.5

Appendix 1 (continuation)

Successions Tax

Total Inheritance Value (Millions of ptas.)	Group of Heirs	Group II				Group III				Group IV			
		0-50	50-250	250-500	> 500	0-50	50-250	250-500	> 500	0-50	50-250	250-500	> 500
	Preexistent Patrimony of Each Heir (Millions of pesetas)	%	%	%	%	%	%	%	%	%	%	%	%
20 Million	1	12.5	13.2	14	15	21.5	22.5	23.5	26	29	30	32	34
	2	8.5	9	9.5	10	16	17	18	19	23	24	25	26
	5	4	4.2	4.5	5	10	10.5	11	12	18	19	20	22
	10					6	6.5	7	8	16	17	18	20
50 Million	1	17	18	19	21	31.5	33	34.5	38	40	42	44	49
	2	14	15	16	17	24	25	26	28.5	32	33	35	38
	5	8.5	9	9.5	10	16	17	17.5	19	23	24	25	27.5
	10	5	5.5	5.6	6.2	11.5	12	12.5	13.5	19	20	21	22.5
100 Million	1	24.4	25.6	27	29	39	41	43	47	50	52.5	55	60
	2	19.2	20.2	21.1	23	31.3	33	34.4	38	40.5	42.5	44.5	48.5
	5	12.6	13.2	14	15.1	21.4	22.5	23.6	26	29	30.5	32	34.7
	10	8.5	9	9.3	10.2	16	16.6	17.4	19	23	24	25	27.5
200 Million	1	29	31	32	35	47	49	51	56	59	62	65	71
	2	24.4	26	27	29	39	41	43	47	50	52.5	55	60
	5	18	18.5	19.5	21	29	30.5	32	35	38	40	42	45.5
	10	12.5	14	14.5	15	21.5	22.5	23.5	26	29	30.5	32	34.5
500 Million	1	32	34	35	38	51	54	56	61	64	68	71	77
	2	30	32	33	36	48	50	53	58	61	64	67	73
	5	24	25	27	29	42	45	47	51	50	52	55	60
	10	13	13	14	15.4	30	32	33	37	40	42	45	49

Appendix 1 (continuation)

Successions Tax

Total Inheritance Value (Millions of ptas.)	Group of Heirs	Group II				Group III				Group IV				
		Preexistent Patrimony of Each Heir (Millions of pesetas)				Number of Heirs (assuming they inherit "equal parts")								
		0-50	50-250	250-500	> 500	%	0-50	50-250	250-500	> 500	%	0-50	50-250	250-500
1000 Million	1	33	35	36	40	52	55	58	63	66	70	73	80	
	2	32	34	35.5	38.5	51	54	56	61	64.5	68	71	77	
	5	29	30.5	32	35	46.5	49	51	56	59	62	65	71	
	10	24.5	25.6	27	29.3	39	41	43	47	50	53	55	60	
2000 Million	1	33.5	35.2	37	40.2	53	56	59	64	67	70.5	74	80.5	
	2	33	35	36.5	40	52.5	55	58	63	66.2	69.5	73	79.5	
	5	32	33	35	38	50.3	53	55.3	60.5	63.5	67	70	76	
	10	29	31	32	35	47	49	51	56	59	62	65	72	
5000 Million	1	34	35.5	37.2	41	53.7	56.4	59	64.5	67.6	71	74.4	81.2	
	2	33.6	35.3	37	40	53.4	56	58.7	64	67.3	70.6	74	80.8	
	5	33	35	36.3	39.6	52.5	55	58	63	66.2	69.5	73	79.5	
	10	32	34	35	38.5	51	54	56	61	64.4	68	71	77	
10,000 Million	1	34	35.6	37.3	41	54	56.5	59.2	65	68.5	72	75	82	
	2	33.8	35.5	37.2	40.6	53.7	56	59	64.5	68	71	74.5	81.2	
	5	33.5	35.2	37	40.2	53.2	56	58.6	64	67	70.5	74	81	
	10	33	34.7	36.3	40	52.5	55.1	58	63	66	69.5	73	79.5	

Appendix 2

Cases in which the Quantity of Succession Tax To Be Paid Is Less Than 5 Million Pesetas

Key	Value of the Company	Percentage Pertaining to Owner	Age of the Person	Year of Becoming Owner	Generational Level of Company	Heirs	
						Nº	Group
12	8	100	67	1958	2nd	1	II
15	160	10	36	1978	2nd	2	II
23	120	20	32	1983	2nd	2	II
24	160	10	36	1979	2nd	5	III
27	190	10	42	1980	3rd	1	II
31	60	16	38	1982	1st	1	II
34	150	25	79	1930	3rd	14	III

Cases in which the Quantity of Succession Tax To Be Paid Is Between 5 and 10 Million Pesetas

3	50	25	49	1965	1st	4	III
17	180	51	51	1960	1st	6	II
32	130	100	66	1962	2nd	10	II
41	86	51	52	1963	1st	4	II
43	50	50	55	1860	1st	2	II

Appendix 3

Cases in which the Persons Frequently Considered Selling Their Shares and Dividing the Money Among Their Heirs

Key	Company Value (Real Assets minus Demandable Liabilities) (Million Pts.)	Percentage Pertaining to Owner	Age of the Person	Year of Becoming Owner	Generation of Company	Heirs		Company Patrimony Legally Separated from Personal	Approximate Corresponding Tax Rate (%)
						Nº	Group		
4	170	50	52	1967	1st	3	II	Yes	19
7*	460	100	64	1956	2nd	3	II	Yes	30
25	140	50	46	1972	1st	5	II	Yes	14
34	150	25	79	1930	3rd	14	III	No	11
37	1,000	23.4	68	1970	2nd	4	II	Yes	30
40	10	100	56	1980	1st	3	II	No	4
41	86	51	52	1963	1st	4	II	No	13
44	600	37.5	42	1979	2nd	2	II	Yes	24

Cases in which the People Frequently Considered Other Forms of Discontinuing Company Activity

7*	460	100	64	1956	2nd	3	II	Yes	30
10	8,000	100	62	1965	1st	4	II	Yes	33
22	700	38	55	1958	1st	4	II	Yes	19
38	320	50	45	1979	2nd	3	II	Yes	25

(*) Key N° 7 appears in both Tables.

Appendix 4

Cases in which the Persons Are Inclined to Continue the Family Enterprise and Are Not Especially Concerned About the Tax Matters Involved in the Succession

Key	Company Value (Real Assets minus Demandable Liabilities) (Million Pts.)	Percentage Pertaining to Owner	Age of the Person	Year of Becoming Owner	Generation of Company	Heirs		Company Patrimony Legally Separated from Personal	Approximate Corresponding Tax Rate (%)
						Nº	Group		
6	149	55	34	1988	3rd	3	III	Yes	31
15	160	10	36	1978	2nd	2	II	Yes	8
20	800	15	63	1965	2nd	40	III	Yes	16
21	1,000	50	33	1986	2nd	2	II	Yes	30
23	120	20	32	1983	2nd	2	II	No	9
24	160	10	36	1979	2nd	5	III	Yes	4
27	190	10	42	1980	3rd	1	II	Yes	12
28	250	51	78	1960	2nd	3	II	Yes	23
31	60	16	38	1982	1st	1	II	No	17
33	4	50	27	1985	1st	3	III	Yes	0
43	50	100	55	1960	1st	2	II	Yes	14

Appendix 5

Cases in which the Persons Are Inclined to Continue the Family Enterprise and Are Programming in Detail for the Succession

Key	Company Value (Real Assets minus Demandable Liabilities) (Million Pts.)	Percentage Pertaining to Owner	Age of the Person	Year of Becoming Owner	Generation of Company	Heirs		Company Patrimony Legally Separated from Personal	Approximate Corresponding Tax Rate (%)
						Nº	Group		
1	1,500	100	56	1968	1st	3	II	No	30
2	180	85	48	1969	1st	4	II	Yes	18
3	50	25	49	1965	1st	4	III	No	8
4	10	100	59	1960	2nd	2	II	No	5
8	280	100	55	1958	1st	1	II	Yes	32
9	1,800	52	65	1959	1st	4	II	No	37
11	440	63	66	1952	3rd	2	II	Yes	30
12	8	100	67	1958	2nd	1	II	Yes	8
13	175	100	77	1960	1st	2	III	Yes	39
14	300	60	71	1955	1st	4	II	Yes	20
16	400	80	63	1970	1st	7	II	Yes	18
17	180	51	51	1960	1st	6	II	Yes	11
18	540	16	54	1963	2nd	4	II	Yes	12
19	110	85	38	1975	1st	2	II	Yes	19
26	4,000	25	54	1965	2nd	6	II	Yes	29
29	440	33	64	1963	1st	3	II	Yes	18
30	26,000	55	63	1962	1st	1	II	Yes	34
32	130	100	66	1962	2nd	10	II	No	8
35	3,000	6,5	66	1970	3rd	4	II	Yes	32
36	540	80	63	1949	1st	4	II	Yes	28
39	3,000	15	45	1968	2nd	4	II	Yes	26
42	300	100	57	1980	3rd	6	III	Yes	30
45	113	85	41	1987	1st	3	II	Yes	17
46	500	100	39	1980	2nd	3	II	Yes	28
47	700	100	39	1980	1st	2	II	Yes	31
48	430	42	39	1980	2nd	3	II	Yes	24
49	3,000	9,7	36	1976	4th	4	II	Yes	23

Appendix 6

Ages and Succession Planning

In FE's, what frequently occurs is that the people who head the company delay handing over the management of the company to others longer than is advisable.

The age at which an owner of a family enterprise begins to plan in detail for hereditary succession is, in some way, a measure that can indicate if this delay might indeed occur.

The data in the analyzed sampling are the following:

Age of the Persons	YES		NO		
	Is programming in detail for the Succession		Is not programming in detail for the Succession		
	Number	%	Number	%	
From 25 to 35 years	---	---	4	100.0	4
From 36 to 50 years	9	56.3	7	3.7	16
From 51 to 55 years	7	87.51	1	12.5	8
From 56 to 60 years	4	0	---	---	4
From 61 to 65 years	7	87.5	1	12.5	8
More than 65 years	8	88.9	1	11.1	9
	35		14		49
		71.4		28.6	100%

If it is assumed that the retirement age for the company is around 65 years old, then there are nine cases in the sampling (18.3%) that have passed this age and, in addition, own the majority of the capital.

Key	Value of the Company	Percentage Pertaining to Owner	Age of the Person	Year of Becoming Owner	Heirs Number	Heirs Group
11	440	63%	66	1952	2	II
12	8	100%	67	1958	1	II
13	175	100%	77	1960	2	III
14	300	60%	71	1955	4	II
28	250	51%	78	1960	3	II
32	130	100%	66	1962	10	II
34	150	25%	79	1930	14	III
35	3	6.5%	66	1970	4	II
37	1	23.4%	68	1970	4	II

Appendix 6 (Continued)

Shown below are the two cases that are not planning in detail for the succession, from among the 17 people who are older than 60 (running a greater risk, therefore, of not having enough time to accomplish it) and who additionally indicate their intention to continue the family business.

Key	Value of the Company	Percentage Pertaining to Owner	Age of the Person	Year of Becoming Owner	Heirs	
					Number	Group
20	800	15%	63	1965	40	III
28	250	51%	78	1960	3	II

Appendix 7

Succession Tax Income as a Percentage of Total Tax Income for Different Countries

	1970	1975	1980	1981	1982	1983	1984	1985	1986	Average % 1980-86
Belgium	1.01	0.75	0.81	0.82	0.68	0.65	0.63	0.58	n.d.	0,69
France	0.69	0.73	0.55	0.74	0.57	0.58	0.57	0.59	0.66	0,61
Germany	0.24	0.14	0.18	0.19	0.21	0.23	0.24	0.22	0.26	0,22
Greece	1.33	1.04	1.22	1.35	1.16	1.17	1.00	0.94	n.d.	1,14
Italy	0.64	0.20	0.21	0.20	0.18	0.17	0.21	0.23	0.24	0,21
Portugal	1.44	0.93	0.24	0.29	0.29	0.66	0.77	0.83	0.97	0,58
United Kingdom	1.98	0.82	0.55	0.51	0.48	0.50	0.54	0.64	0.66	0,55
Holland	0.58	0.37	0.48	0.49	0.42	0.38	0.44	0.44	0.49	0,45
Denmark	0.35	0.38	0.43	0.44	0.42	0.38	0.41	0.47	0.49	0,43
United States	1.61	1.38	1.09	1.02	1.12	0.92	0.80	0.77	0.89	0,94
Japan	0.94	0.97	0.71	0.81	0.92	1.02	1.06	1.18	n.d.	0,95

Source: «Statistiques de recettes publiques des pays membres de l'OCDE, 1965-86,» OCDE, 1987.

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