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Inheritance tax: An Overview of the Current Debate and Legal Situation

Inheritance tax is currently receiving increased attention. The discussion is being shaped by both legal questions and an increasingly lively political debate. Particular focus is being directed towards the various proceedings that have been pending before the Federal Constitutional Court for several years.

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Proceedings before the Federal Constitutional Court

In early 2025, several inheritance tax cases were pending before the Court. Two of these, relating to the taxation of a longstanding bequest and the classification of real estate as administrative assets, were dismissed as inadmissible.

Another case (1 BvR 804/22) has attracted significant public attention. The case examines whether business assets are unjustifiably given greater tax advantages than private assets. The case in question concerns the inheritance of a securities portfolio and a share of ownership in an apartment. The key question is whether unequal treatment exists with no adequate justification.

It remains unclear when the Federal Constitutional Court will deliver its ruling - over the last year the expected decision has been repeatedly postponed. Most recently, it was suggested that a decision could be expected by the end of 2026.

Key question: Will the inheritance tax rules for business assets come under scrutiny?

The central issue emerging from the current debate is whether the inheritance tax regime for business assets will be subject to a fundamental review. Alongside the political discussions, this relates to constitutional questions concerning the relief provisions and how they align with previous rulings of the Federal Constitutional Court.

Political demands range from higher exemptions for all, as requested by Bavaria in a judicial review procedure, to the complete abolition, or at least restriction, of tax relief for the transfer of businesses considered to be 'large estates'. However, definitions of 'large estates' vary significantly.

Current professional assessment:

In our view, inheritance tax law currently complies with the boundaries set by earlier Federal Constitutional Court decisions (1995, 2006 and 2014). At the same time, the discussion surrounding potential reforms is gaining momentum.

Regardless, policymakers and economic experts have taken up the topic, sparking a controversial debate. However, we do not expect concrete steps, such as draft legislation, to be taken until after the Federal Constitutional Court has ruled. Until then, action can – and should – still be taken.

What this means for companies

In light of the current legal and political uncertainty, family businesses and financial directors are advised to review their situation and take action while the existing inheritance tax rules for business assets still apply.

One thing is clear: **'This is as good as it gets'**

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