



DEKEYSER & ASSOCIÉS

Taxation of Gifts & International Inheritance

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FFPE– May 29, 2018

- Taxation of Gifts and International Inheritance – - Agenda -

➤ **Reminder:**

- Civil aspects

➤ **Introduction to taxation**

- Criteria for taxation of a gift / inheritance in a cross-border context
- Risk of double taxation and remedies
- International tax treaties concluded by Belgium

➤ **Inheritance tax in other members states**

➤ **Belgian taxation: gifts and inheritance**

- How are gifts and inheritance taxed?
- Inheritance tax and transfer duties upon death
- Real estate in Belgium
- Belgian Family Trust



- Taxation of Gifts and International Inheritance – - Relevant factors for taxation

Inheritance: external factors:

- Nationality
- Residence
- Place of death
- Location of the inherited property

Gifts: external factors

Relevant criteria?



- Taxation of Gifts and International Inheritance - - Relevant factors for taxation? -

- Nationality of the deceased, donor, heir, donee
- Place of death
- Residence of heirs/donees

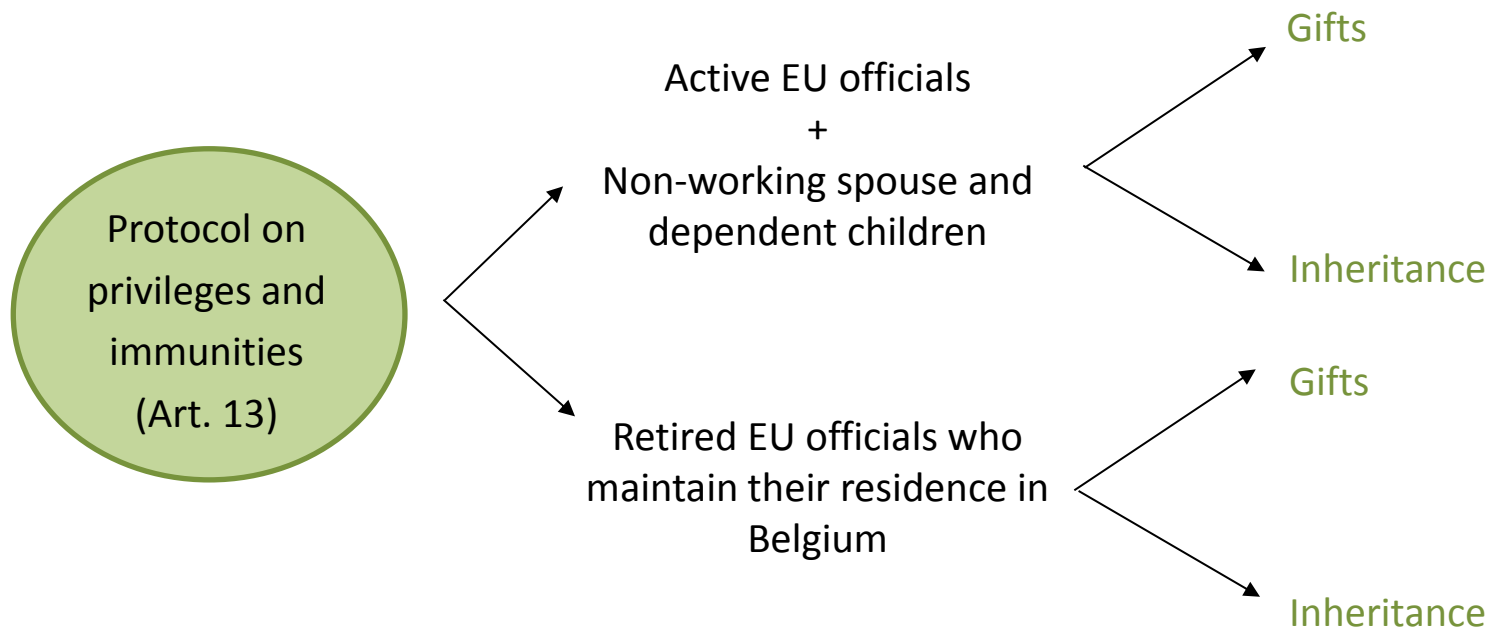


- Taxation of Gifts and International Inheritance - - Relevant factors for taxation -

- ❑ Residence of the deceased / donor
- ❑ Location of the property



- Taxation of Gifts and International Inheritance - - EU Officials: Protocol n°7 -



- Taxation of Gifts and International Inheritance - - External factors: multiple taxation -

❑ Risk of double taxation, triple taxation

Example: a Belgian resident gives his Spanish home to his children residing in France

➡ Taxes due in Belgium, France and/or Spain?

❑ Remedies:

- Personal planning
- Double tax treaties
- Domestic law provisions



- Taxation of Gifts and International Inheritance - - Double Tax Treaties -



☐ Agreements signed by Belgium



Gifts: none

Inheritance: France & Sweden

☐ Treaties signed by other countries



Inheritance: Austria, Czech Republic, Hungary, and Slovakia



Gifts: France

Inheritance: USA, UK, France, Sweden, Denmark, Greece, Israel



Gifts: None

Inheritance: France, Sweden, Greece



Gifts: USA, Canada, Germany, Italy, Portugal, Austria, etc.

Inheritance: USA, Canada, Germany, Italy, Spain, Portugal, UK, Qatar, U.A.E



Gifts: USA, France, Denmark, Sweden

Inheritance: USA, France, Denmark, Sweden, Switzerland, Greece, etc.



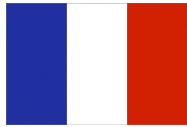
- Taxation of Gifts and International Inheritance -

- Inheritance tax in other member states –

- as per 29 May 2018 -



Deceased husband
His heirs: wife & children



- Spouse: exempt from inheritance tax
- Children: 5% to 45% (deduction of €100,000/child)



- Spouse/Children: inheritance tax of 7% to 30%
 - Allowance of €500,000 in favour of the spouse & €900,000 for each child



- Spouse/Children: 4% inheritance tax + French tax (about 3%)
 - Allowance of 1.000.000€ in favour of spouse and children



- Spouse/Children: inheritance tax of 7.5% to 34%
 - Allowances under certain foral laws
 - Catalonia: €100,000/children – €100,000/spouse
 - Andalusia: €1,000,000/children – €1,000,000/spouse
 - Navarre: €250,000/children – €250,000/spouse ➡ excess taxed at 0.8%
 - Madrid: 99% exemption from inheritance tax for the spouse



- Taxation of Gifts and International Inheritance -

- Inheritance tax in other member states -



Deceased husband
His heirs: wife & children



Spouse/Children: exempt from inheritance tax (subject to conditions)



Spouse/Children 1% to 10%

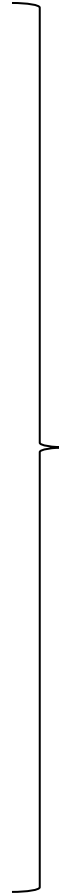
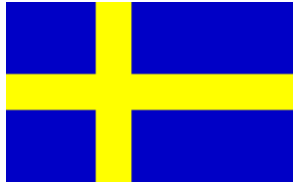
- Allowance of €150,000 or €400,000 for the spouse (depending on the length of marriage)
- Allowance of €150,000 per child (€400,000 if child is a minor)

- Taxation of Gifts and International Inheritance -

- Inheritance tax in other member states -



Deceased husband
His heirs: wife & children



No inheritance tax

- Taxation of Gifts and International inheritance- - Belgian inheritance tax -



☐ Inheritance tax upon death of a **Belgian resident**

- Taxable base:
 - Global assets
 - Certain assets given previously + non-registered
 - “Legal fictions”
 - Progressivity reserve (except in Brussels)
- Rates: see slide 13

☐ Transfer duties upon the death of **Belgian non-residents** (e.g. active EU officials)

- Taxable base: real state in Belgium (what about a real estate company?)
- Rates: same as inheritance tax (which competent region?)

- Taxation of Gifts and International Inheritance -

- Inheritance tax rates -



❑ Brussels

Children/spouse	3% to 30%
Brothers/sisters	20% to 65%
Uncles/nephews	35% to 70%
Others	40% to 80%

❑ Walloon Region

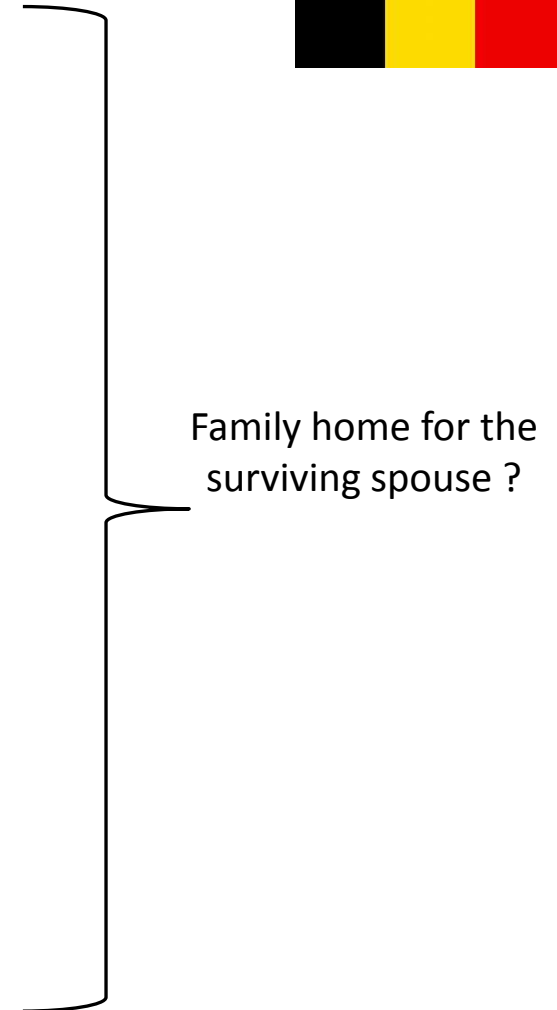
Children/spouse	3% to 30%
Brothers/sisters	20% to 65%
Uncles/nephews	25% to 70%
Others	30% to 80%

❑ Flanders (Draft Decree March 2, 2018)

Children/spouse	3% to 27%
Others	25% to 55%

- Specificities
 - Distinction between movable assets and real estate
- Exemption of €50,000 for the spouse / movable assets

❑ Reduces rates/exemptions in specific cases (NGO,...)



- Taxation of Gifts and International Inheritance -

- Taxation gifts of movable assets -



☐ Gifts of movable assets

➤ Forms?

➤ Taxation?

➤ Exemptions?

- 3 or 7 year period
- Exception in Flanders

➤ Registration duties:

- Wallonia: 3.3% or 5.5% (reform 2018)
- Brussels/Flanders: 3% or 7%

➤ Protocol n°7?

Inheritance
Tax?



- Taxation of Gifts and International Inheritance -

- Flanders: gifts with a reserved usufruct -



□ Vlabel:

Gift of cash and/or securities with a reserved usufruct in favour of the donor is, upon the donor's death, subject to inheritance tax **unless the gifts is registered in Belgium and the tax is paid**

□ Conditions of application:

- Donor: Flemish resident upon death
- Gift of cash and/or securities with a reserved usufruct
- For all gifts with a split of ownership after 1st June 2016

- Taxation of Gifts and International Inheritance - - Belgian taxation of gifts (movable) -



□ Man from Brussels with two children

□ Estate:

○ Bonds:	€ 500,000
○ Shares:	€ 500,000
○ Liquid assets:	<u>€ 500,000</u>
Total:	€ 1,500,000

□ In the absence of any estate planning ➡ tax cost = +/- € 325,000

□ Gifts (with a reserved usufruct, or not) ➡ tax cost = € 0 or +/- € 45,000

- Taxation of Gifts and International Inheritance - - Life Insurance -

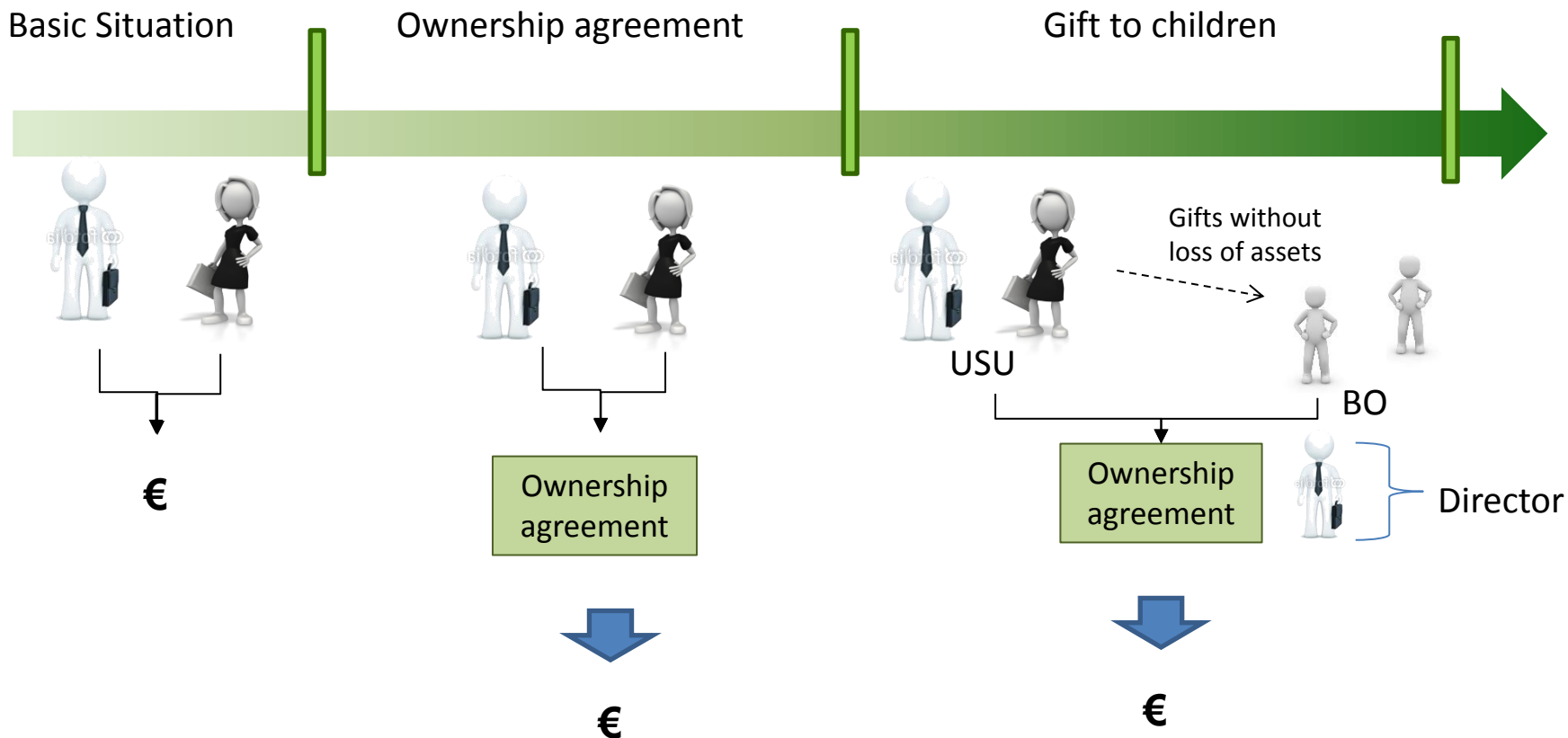


	Policy 1	Policy 2	Policy 3
Policy Holder	Father	Children	Mother (sep. property)
Insured	Father	Father	Father
Beneficiary	Children	Children	Children



Inheritance tax? Inevitable?

- Taxation of Gifts and International Inheritance - - Ownership Agreement -



- Taxation of Gifts and International Inheritance -

- Belgian taxation of property gifts -



□ Rates

- Gift of a **Belgian property** by a Belgian resident

□ **Brussels**

Children/Spouse	3% to 27% (over €49,500)
Other persons	10% to 40% (over €95,000)
Preferential rate for family property	

□ **Flanders**

Children/Spouse	3% to 27%
Other persons	10% to 40%

□ **Wallonia**

Children/Spouse	3% to 30% (preferential rate for family home)
Brothers/Sisters	10% to 40%
Uncles-aunts/nephews-nieces	10% to 50%
Others	20% to 50%

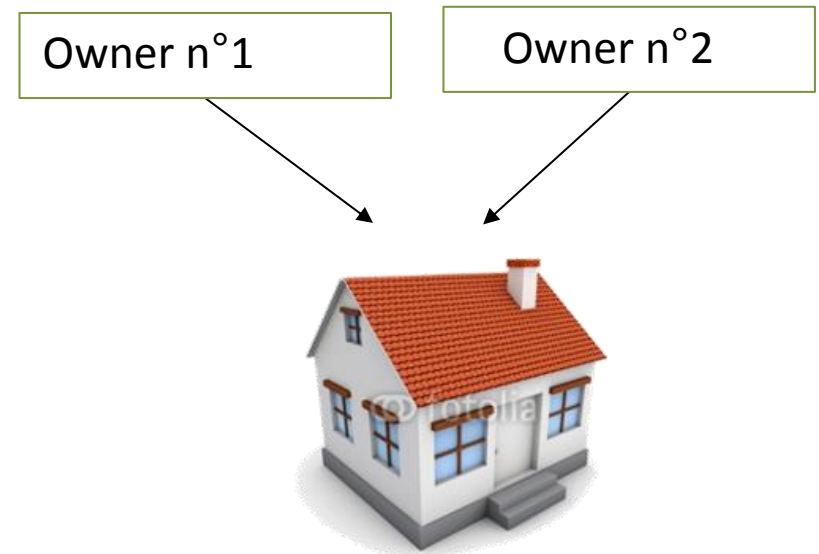
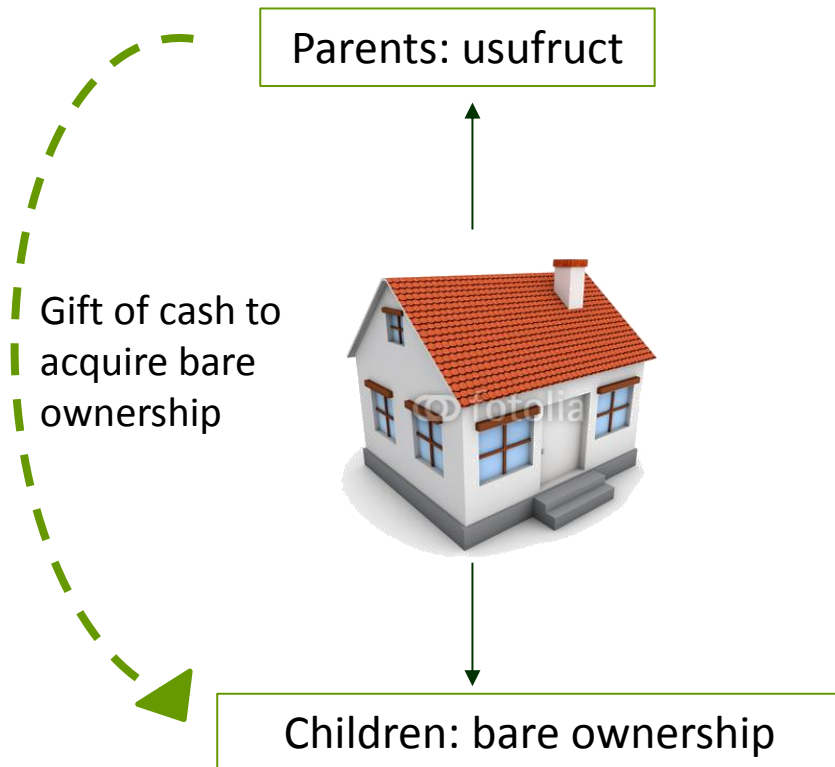
- Gift of a **foreign real estate** by a Belgian resident: fixed registration duty (+foreign tax)

Area of jurisdiction?



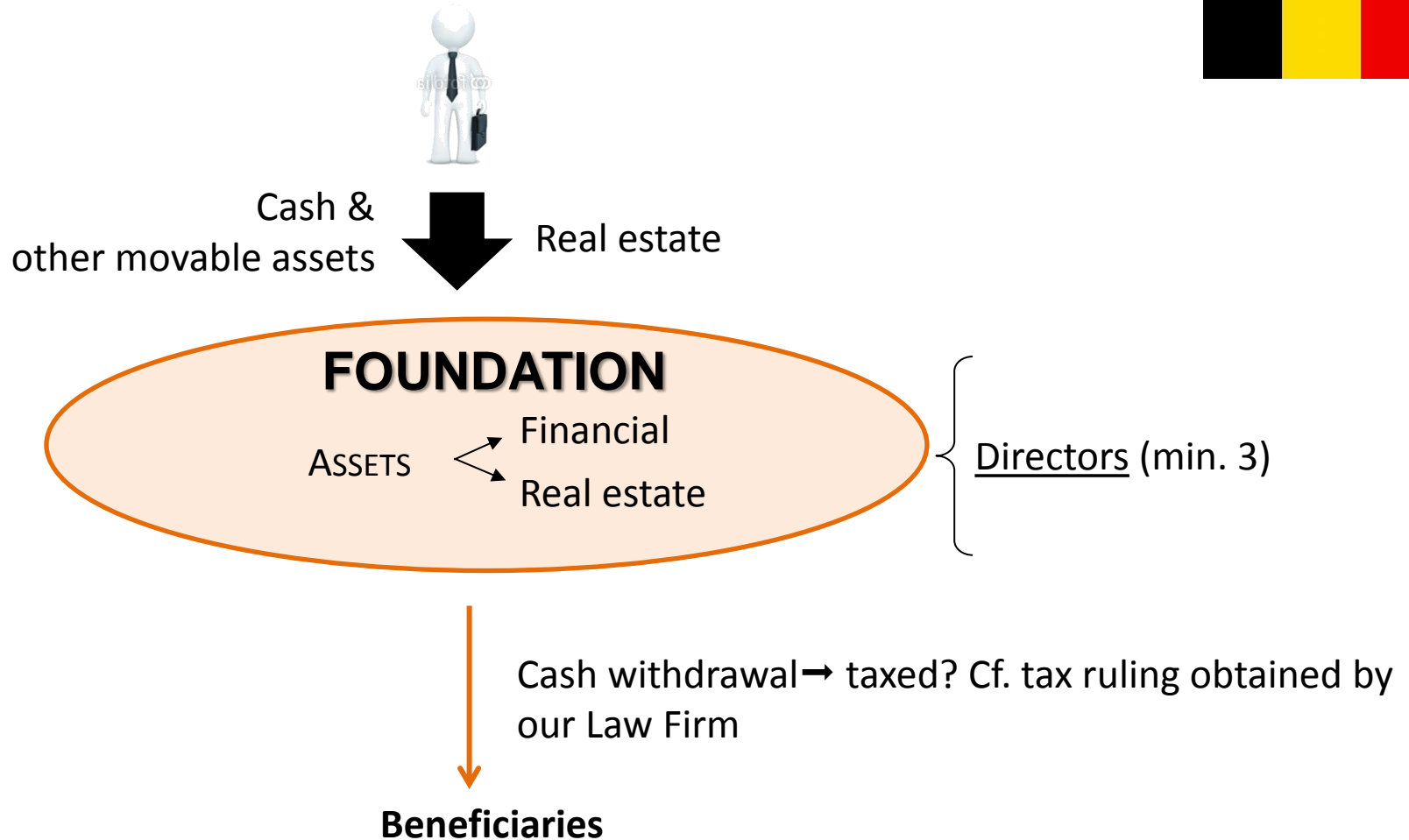
- Taxation of Gifts and International Inheritance -

- Structuring a purchase of a Belgian building -



Or purchase via a company?

- Taxation of Gifts and International Inheritance - - Private foundation -



Questions & Answers

Thank you for your attention



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FFPE | 29 May 2018



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