



Paying for care

Paying for intra-family care?

Prof. dr. Renate Barbaix

University of Antwerp

Research Group Personal rights and property rights

Antwerp Tax Academy – member of the Board of directors

drs. Rik Smet

University of Antwerp

Antwerp Tax Academy



Introduction

- Allocation of care: State, market, family
- Research question: complications of payment of care in case of informal intra-family care, with regard to inheritance law and tax law



Payment for care

- Payment by
 - (State)
 - (family)
 - Care recipient



Payment for care

- Payment
 - Care agreement
 - Periodical payments
 - Lump sum
 - Through 'gifts' (donations inter vivos or bequeath)
- Payment
 - Compensation
 - Reward (or remuneration)



Inheritance law

- Does the payment need to be taken into account in the liquidation of the succession?
- Why (not)?:
 - forced heirship rights (= restrictions of freedom of disposition)
 - Inheritance contracts



Inheritance law

- Is the “payment” a gift?
 - Constructive elements of a gift: material and intentional
 - Material: is there an enrichment?
 - Intentional: is there an intention to give? (animus donandi)
 - Depends on:
 - Care provided (intensity, duration): proportionality
 - Care recipient’s estate



Tax aspects – personal income taxation

- In principle synthetic tax system
 - Income from immovable property
 - Income from movable property
 - Professional income
 - Miscellaneous income
- In reality large differences in tax burden between categories



Tax aspects – personal income taxation

- Semi-agoral labour
 - Professional? (profit seeking?)
 - No general exemption
- Fully taxable
 - Progressive rates
 - Social security contributions
 - Net income basis



Tax aspects – personal income taxation

- Leniency towards “volunteers”
 - Circular letter from tax authorities
 - Limited leniency: e.g. institutionalised volunteer work
- *Informal* caregiver is no “volunteer”
 - Fully taxable on net income basis



Tax aspects – personal income taxation

- Miscellaneous income
 - No professional activity
 - Catch all provision
 - Fixed rate: 33%
 - Net income basis



Tax aspects – personal income taxation

- Periodical vs. unique payment
 - Professional income: progressive tax rates
Sometimes average tax rate previous year
 - Miscellaneous income: 33%



Conclusion



Questions?

Renate.barbaix@uantwerpen.be

Rik.smet@uantwerpen.be