

# **Overview of Family Business Relevant Issues**

## **Country Fiche Germany**

**Author:**

Institut für Mittelstandsforschung Bonn

**Project Co-ordination:**

KMU FORSCHUNG AUSTRIA  
Austrian Institute for SME Research



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This study has been elaborated with reasonable care. The authors and the project co-ordinator do not, however, accept responsibility for printing errors and/or other imperfections and potential (consequential) damage resulting thereof.

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## 1 Introduction

Family businesses are a topic in public discussion. There is some serious discussion about successorship and the problems to find a successor for an entrepreneur and further the problem of financing inheritance taxes. There are other issues in the discussion, however unqualified. The term family enterprises is used without a common definition.

Family enterprises differ from other enterprises as

- They are more flexible in their strategic decision
- They can have the problem of successorship
- Donation and inheritance taxes have a direct influence on the enterprise
- They prefer different ways of raising capital than other enterprises
- Their social activities are more sustainable compared to none family enterprises
- Family enterprises have a tendency to a more long run strategy concerning there staff in the sense, that they even in economic regression phases employ staff

Lots of other issues are speculated about, however family enterprises are underlying in many fields the same necessities as other enterprises. Economic issues like vertical integration or cost calculation are very often connected to the size of enterprises. As in small enterprises naturally the share of family businesses is higher there is a tendency to connect themes related to the size of an enterprise to the question whether an enterprise is owned by a family or not. Therefore it must be stated that not all the literature about family enterprises in Germany really deserves the judgement "sincere".

## 2 Understanding of “family businesses” in the national context

In Germany family enterprises are defined as enterprises where the owner or a member of the owner family also manages the enterprise. Condition is that the person or the family in question holds at least 50 % of the votes of an enterprise. These enterprises are called “Mittelstand”. (Hauser, 2005)

There is a so called wider definition of family enterprises. The term of control is the same but it is not necessary that a member of the owner family manages the enterprise. The manager can be an external person. (Stiftung Familienunternehmen, 2007)

So a company operated and owned by a single person will always be considered as family enterprise. Sole proprietors are always family enterprises as a sole proprietor always controls the whole enterprise and is by law the only manager of his business.

### Legal regulations

In some field of legislation German law knows exceptions for SME. These are bound to the size of an enterprise not to the ownership. This is the case e.g. bookkeeping or subventions. A definition of family businesses cannot be derived from legislation.

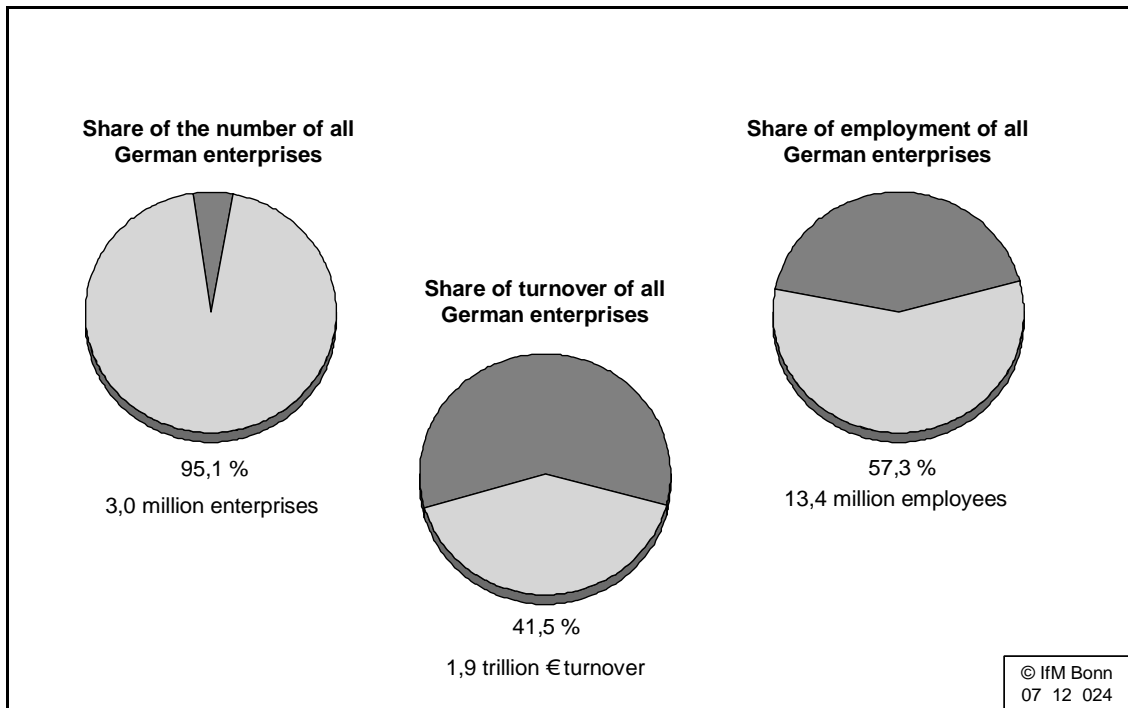
In public discussion family enterprises are only mentioned when a special enterprise is in focus. In public family enterprises are understood as enterprises which are completely in the ownership of a family, no matter by whom they are managed. Also the difference between SME and family enterprises often is not recognized by the public and even journalists do not differentiate between them.

In the public the terms family enterprises and SME are very often used synonymously. However the terms are not identical, a lot of SME would not fit to the definition of family enterprises and vv. The fact that smaller enterprises are more often family enterprises than big enterprises leads to confusing the terms.

In theory it is expected that family enterprises are much more flexible compared to other enterprises. The reason for that is that the owners might agree quicker in strategic decisions as through the family links there is an additional relationship between them, which might make it possible to meet more frequent and more quickly. Further it is assumed that compared to other enterprises they have a much more long-run view. The aim of the owners is not only to maximise profit or shareholder value but to hand the company over to the next generation in a condition, which is even better than before. A typology of German enterprises, which includes family enterprises, was published in 2003 in the OECD paper <http://www.oecd.org/dataoecd/40/36/7476092.pdf>.

### 3 Importance of family businesses for the national economy

Diagram 1 Share of family enterprises, turnover and employees in %.



Source: HAUSER/WOLTER (2007)

About 95 % or three million of all German enterprises are family enterprises in the sense that a family or a single person controls the enterprise and a member of the family or the single person in question also manages the enterprise. These enterprises employ 13,4 million or 57 % of all German employees and earn 1,9 trillion € or 42 % of the German turnover.

## 4 Characteristics of family businesses

**Table 1 Family enterprises by turnover-size-classes and economic sector 2000 in Germany in % of all enterprises**

Economic sector	Enterprises with ... to ... Mill. €turnover					Total
	< 1	1 - < 5	5 - < 10	10 - < 50	50 u.m.	
Producing sector	98,1	89,6	5,4	57,1	31,0	95,4
Trade	99,1	89,4	80,0	66,8	41,6	96,9
Services for enterprises	94,3	75,7	65,6	48,0	29,4	92,8
Other Services	96,4	77,7	54,1	30,9	18,1	95,8
Other sectors	97,5	76,7	61,9	43,1	21,3	95,1
<b>Total</b>	<b>96,9</b>	<b>85,4</b>	<b>74,0</b>	<b>58,0</b>	<b>33,6</b>	<b>95,1</b>

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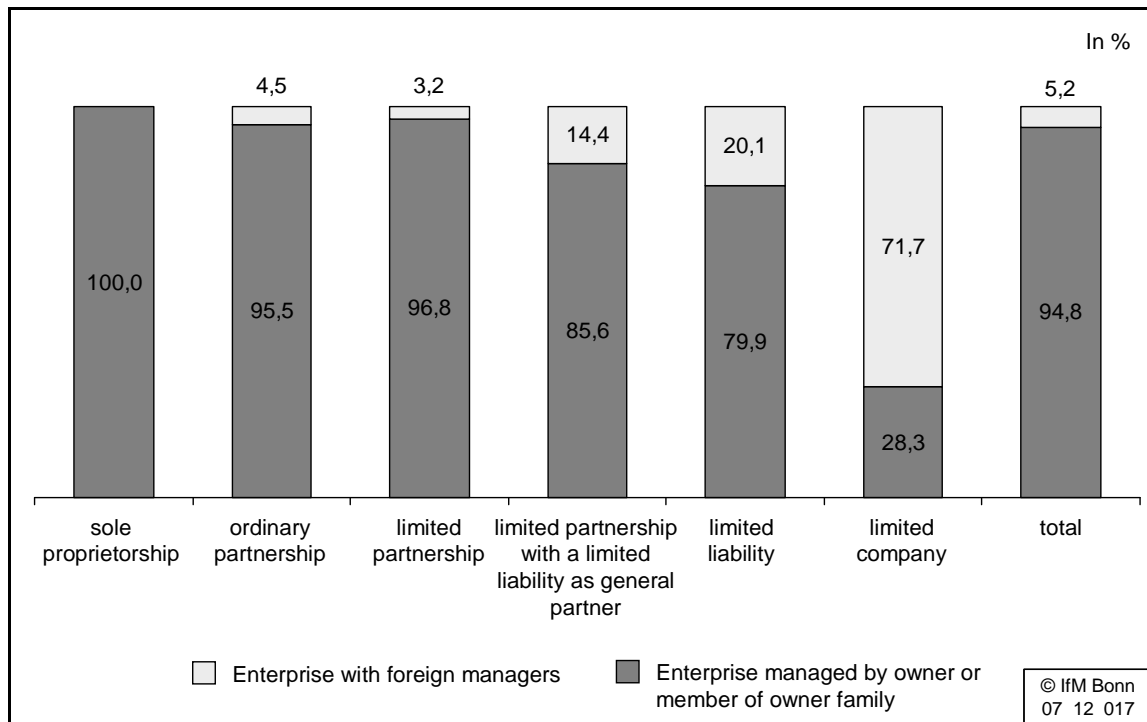
Source: Estimations of Institut für Mittelstandsforschung Bonn

The share of family enterprises is higher in the smaller size classes, in the size class 50 Million € turnover and more only a share of one third of the enterprises are family enterprises.

The largest share of family businesses is found in the trade sector and the producing sector. These two sectors also have the biggest number of big family enterprises. Only the enterprise services sector has a share of family enterprises, which is below 95 %. However in this area there are a lot of holdings and affiliates of enterprises, which cannot be made visible as such.

Institut für Mittelstandsforschung Bonn is investigating the share of family enterprises since 1998 by drawing random samples of enterprises and inquiring their ownership links. The share of family businesses compared to all enterprises value deviated around 95 %. The last estimation was carried out in 2007.

**Diagram 2 Family enterprises by legal form**



Source: Institut für Mittelstandsforschung Bonn 2001

The share of family enterprises is the higher the more the capital is bound to a person (Diagram 1).

Family enterprises guard their independency. Family enterprises finance their enterprises much more often by bank loans than the average enterprise. They have a tendency to deny any kind of capital, which might have votes and might give the share owner the possibility to interfere into their business.

In the area of social responsibility it is difficult to differentiate between the social activities of the family enterprise and the family that owns the enterprise. As a social project is often initiated by the family that owns the enterprise and inter alia because of their personal experience the engagement is much more intensive. This results in a better mentoring for the project and also in a sustainable interest in the project. Thus, projects initiated by family enterprises are more sustainable than projects from other enterprises. Whereas non family enterprises finance projects family enterprises not only finance them but also take care of them.

Owners of family enterprises have a much more intensive relation with their enterprise. Their strategic decisions are much more based on long-term considerations than that of none family enterprises. The reason for that is that the enterprise is the economic base of a family and the family has big influence. None family enterprise owners usually have less power to take influence, first of all because of their smaller amount of shares and second, because they have higher information costs. Thus employed managers have more influence. Naturally the latter have more interest in short term profit maximising. The ideal case is that the owner family received the enterprise from the predecessor generation and wants to hand it over to the next generation in the best possible state. This long run view results, e.g. in a more sustainable staff politics. In a study conducted by the Institut für Mittelstandsforschung Bonn on behalf of the Stiftung Familienunternehmen it could be proved that in years 2003 to 2005, the staff of the 500 biggest German Family businesses increased by 200,000 persons, whereas the 30 biggest German enterprises quoted at the stock exchange decreased their staff by 400,000 persons.

Other differences than described here and in Chapter 2 are difficult to find and to prove. Different behaviour is often connected to the size of an enterprise. As more family enterprises can be found in the smaller than in the larger size classes sometimes a spurious correlation between family enterprises and a certain kind to act is found. It has to be pointed out that family enterprises are underlying the same necessities as other enterprises.

## 5 Institutional actors and their strategies, policies and initiatives

The reform of inheritance tax legislation has the purpose to release family enterprises from sudden tax burden. Tax burden resulting from the death of the owner of an enterprise might lead to a very high sudden tax burden. Two models are discussed (Referentenentwurf vom 20. November 2007):

- The payment of inheritance tax will be distributed over a time of 10 years.
- Inheritance Tax for capital will be lower as long as the capital is left at the disposal of the enterprise.

Both solutions are said to be connected to a lot of bureaucracy.

However legislation does not give a definition of family businesses.

A problem for family enterprises is the legislation on statutory shares. It may cause liquidity problems if a family member claims his or here share of an enterprise.

There are two actors for family enterprises, the Stiftung Familienunternehmen and the Bundesverband der Deutschen Industrie which has a branch focussed on family enterprises. Handicraft and Liberal Professions are underlying legislation which makes it difficult for them to be organised in a form different from family enterprises. Thus, most of them are family enterprises. However, the chambers and associations of Handicraft and Liberal Profession enterprises are not focussed on family enterprises issues. Therefore they are not listed here.

Legislation has to be equal and must not refer to special cases. Apart from Inheritance and Donation Tax law there is no legislation, which prefers family enterprises.

	Explanation
<b>institutional features</b>	
<b>name of the actor</b>	<b>Stiftung Familienunternehmen Foundation for family business</b>
<b>nature of the actor</b>	<input type="checkbox"/> government <input type="checkbox"/> employers' organisation <input type="checkbox"/> support service provider (information, advice, education) <input type="checkbox"/> research centre <input checked="" type="checkbox"/> network/family business specific organisation (including interest groups/representative organisations/lobbies) <input type="checkbox"/> others, namely:
<b>address</b>	Ismaninger Strasse 56, D-81675 München
<b>contact person</b>	Stefan Heidbreder

	Explanation
<b>institutional features</b>	
telephone	+49 (0) 89 / 20 18 66 11
web-page	<a href="http://www.familienunternehmen.de/">http://www.familienunternehmen.de/</a>
e-mail	stefan.heidbreder@familienunternehmen.de/
<b>content based features</b>	
type	<input type="checkbox"/> fiscal regulation/tax law <input type="checkbox"/> labour law/social security law <input type="checkbox"/> company law <input checked="" type="checkbox"/> awareness raising measures <input type="checkbox"/> corporate governance codes, family governance, family protocols, family constitution, family council, family assembly or similar <input type="checkbox"/> education/training measures <input type="checkbox"/> information/advice <input type="checkbox"/> business transfer support instruments <input type="checkbox"/> financial support <input type="checkbox"/> marketing <input checked="" type="checkbox"/> networking <input checked="" type="checkbox"/> others, namely: research
objective	Economic research on family enterprise issues, focussing the public on them, networking for family enterprises, positive information of the public on family enterprises
initiation	2002
contents/description of the initiative/measure	<p>The following projects can be cited as an example:</p> <ol style="list-style-type: none"> <li>1. Support of the media by running a special training programme for the major journalist schools. In addition, journalists and entrepreneurs are supported in the current reporting about family business.</li> <li>2. To improve the level of information about family businesses, economical and economic-political questions are examined by scientific research assignments. For example, the "Competitiveness Report for Family Enterprises", which compares the local conditions for family businesses in 15 OECD-countries, is released regularly.</li> <li>3. Inspiration and introduction of young people to a career in a family business: The annual "successors conference" and the so called "family business career days" can be cited as an example.</li> </ol>
<b>user based features</b>	
eligibility criteria/target group	Very large Enterprises, which are under the control of a family. At least the family should own 50% of the shares, which are entitled to vote.
Promotion tools/information strategy	Press, publications
source of funding	Voluntary donations of at least 5.000 € per Member
costs for participants/members	Minimum 5.000 €

	Explanation
<b>institutional features</b>	
name of the actor	<b>Federal Association of German Industries BDI - Bundesverband der Deutschen Industrie e.V.</b>
nature of the actor	<input type="checkbox"/> government <input checked="" type="checkbox"/> employers' organisation <input type="checkbox"/> network/family business specific organisation (including interest groups/representative organisations/lobbies) <input type="checkbox"/> others, namely:
address	Breite Straße 29, 10178 Berlin
contact person	Dipl.Vw.Josef Düren
telephone	+49(0)30 - 2028 1413
web-page	<a href="http://www.bdi-online.de">http://www.bdi-online.de</a>
e-mail	<a href="mailto:j.dueren@bdi.eu">j.dueren@bdi.eu</a>
<b>content based features</b>	
type	<input type="checkbox"/> fiscal regulation/tax law <input type="checkbox"/> labour law/social security law <input type="checkbox"/> company law <input type="checkbox"/> awareness raising measures <input type="checkbox"/> corporate governance codes, family governance, family protocols, family constitution, family council, family assembly or similar <input type="checkbox"/> education/training measures <input type="checkbox"/> information/advice <input type="checkbox"/> business transfer support instruments <input type="checkbox"/> financial support <input type="checkbox"/> marketing <input type="checkbox"/> networking <input checked="" type="checkbox"/> others, namely: lobbying
objective	Support the interests of industrial enterprises which are member of one of the subassociations of BDI also in co-operation with other association. BDI excludes social political themes from its agenda
initiation	1900
contents/description of the initiative/measure	Lobbying, Provision of information
eligibility criteria/target group	Have an activity which is covered by one of the branches covered by their subassociations. Target group of the BDI is German Industries, which means none handicraft enterprises of the manufacturing sector.
Promotion tools/information strategy	Publications, press releases, press work
source of funding	<input type="checkbox"/> EU-funds <input type="checkbox"/> national funds (governments) <input checked="" type="checkbox"/> membership fees <input type="checkbox"/> others, namely:
costs for participants/members	Kept confidential by association
<b>performance based features</b>	
evolution	BDI supports the reform of inheritance tax legislation. There is a so called "Mittelstandsausschuss", discusses especially the problems of family enterprises.

	Explanation
<b>institutional features</b>	
<b>name of the actor</b>	<b>Arbeitsgemeinschaft selbständiger Unternehmer</b>
nature of the actor	<input type="checkbox"/> government <input type="checkbox"/> employers' organisation <input type="checkbox"/> support service provider (information, advice, education) <input type="checkbox"/> research centre <input checked="" type="checkbox"/> network/family business specific organisation (including interest groups/representative organisations/lobbies) <input type="checkbox"/> others, namely:
address	Tuteur Haus, Charlottenstr. 24, 10117 Berlin
telephone	+49 (0) 30 300 65-0
web-page	<a href="http://www.bju.de">http://www.bju.de</a>
<b>content based features</b>	
type	<input type="checkbox"/> fiscal regulation/tax law <input type="checkbox"/> labour law/social security law <input type="checkbox"/> company law <input type="checkbox"/> awareness raising measures <input type="checkbox"/> corporate governance codes, family governance, family protocols, family constitution, family council, family assembly or similar <input type="checkbox"/> education/training measures <input type="checkbox"/> information/advice <input type="checkbox"/> business transfer support instruments <input type="checkbox"/> financial support <input type="checkbox"/> marketing <input type="checkbox"/> networking <input checked="" type="checkbox"/> others, namely: lobbying
objective	Lobbying of owner enterprises and family enterprises with owners who manage their enterprises and who are not older than 40 Years.
initiation	1957
contents/description of the initiative/measure	The following projects can be cited as an example: <ol style="list-style-type: none"> <li>1. Definition of family enterprises and estimation of their quantitative importance in the German economy.</li> <li>2. Quantitative evaluation of the problem of succession in German enterprises.</li> <li>3. Inspiration and introduction of young people to a career in a family business: The annual "successors conference" and the so called "family business career days" can be cited as an example.</li> </ol>
<b>user based features</b>	
eligibility criteria/target group	Entrepreneurs who own an enterprise or shares of an enterprise with at least 10 employees or more than one million Euro turnover. The enterprise in question must be registered in the trade register or in the handicraft register.
Promotion tools/information strategy	Press, publications, presentations, papers, Networking, surveys, organisation of workshops.
source of funding	Member fees: 500 Euro p.a., if the owned enterprise has more than 100 employees 1000 Euro p.a.

	Explanation
<b>institutional features</b>	
<b>name of the actor</b>	<b>Institut für Mittelstandsforschung Bonn</b>
nature of the actor	<input type="checkbox"/> government <input type="checkbox"/> employers' organisation <input type="checkbox"/> support service provider (information, advice, education) <input checked="" type="checkbox"/> research centre <input type="checkbox"/> network/family business specific organisation (including interest groups/representative organisations/lobbies) <input type="checkbox"/> others, namely:
address	Maximilianstr. 20; 53111 Bonn
contact person	Dipl. Vw. Michael Holz
telephone	+49 (0) 228 / 7299760
web-page	<a href="http://www.ifm-bonn.org">http://www.ifm-bonn.org</a>
e-mail	Holz@ifm-bonn.org
<b>content based features</b>	
type	<input type="checkbox"/> fiscal regulation/tax law <input type="checkbox"/> labour law/social security law <input type="checkbox"/> company law <input type="checkbox"/> awareness raising measures <input type="checkbox"/> corporate governance codes, family governance, family protocols, family constitution, family council, family assembly or similar <input type="checkbox"/> education/training measures <input type="checkbox"/> information/advice <input type="checkbox"/> business transfer support instruments <input type="checkbox"/> financial support <input type="checkbox"/> marketing <input type="checkbox"/> networking <input checked="" type="checkbox"/> others, namely: research
objective	Economic research on the problems of the German enterprises where the owner or a member of the ownerfamily also manages the enterprise and of SME, consulting of federal and regional ministries
initiation	1957
contents/description of the initiative/measure	The following projects can be cited as an example: <ol style="list-style-type: none"> <li>1. Definition of family enterprises and estimation of their quantitative importance in the German economy.</li> <li>2. Quantitative evaluation of the problem of succession in German enterprises.</li> </ol>
<b>user based features</b>	
eligibility criteria/target group	Enterprises which are under the control of a single person or family and that are managed by a member of that family. At least the family should own 50% of the shares which are entitled to vote.
Promotion tools/information strategy	Press, publications, presentations, papers, participation in economic experts meetings
source of funding	Public funded, 1/3 by the federal state of North Rhine-Westphalia, 2/3 by the Federal Ministry of Economics

	Explanation
<b>institutional features</b>	
name of the actor	<b>Regierungsentwurf eines Gesetzes zur Reform des Erbschaft- und Bewertungsteuergesetzes; Governmentdraft: Reform of the inheritance and valuationlaw</b>
nature of the actor	<input checked="" type="checkbox"/> government <input type="checkbox"/> employers' organisation <input type="checkbox"/> support service provider (information, advice, education) <input type="checkbox"/> research centre <input type="checkbox"/> network/family business specific organisation (including interest groups/representative organisations/lobbies) <input type="checkbox"/> others, namely: Research Institute
address	Bundesministerium der Finanzen, Graurheindorfer Straße 108, 53117 Bonn
telephone	03018/ 682- 0
web-page	www.bundesfinanzministerium.de
e-mail	Poststelle@bmf.bund.de
<b>content based features</b>	
name of the strategy/initiative/ regulation	Erbschaftsteuerreform (Inheritagetaxreform)
type	<input checked="" type="checkbox"/> fiscal regulation/tax law <input type="checkbox"/> labour law/social security law <input type="checkbox"/> company law <input type="checkbox"/> awareness raising measures <input type="checkbox"/> corporate governance codes, family governance, family protocols, family constitution, family council, family assembly or similar <input type="checkbox"/> education/training measures <input type="checkbox"/> information/advice <input type="checkbox"/> business transfer support instruments <input type="checkbox"/> financial support <input type="checkbox"/> marketing <input type="checkbox"/> networking <input type="checkbox"/> others, namely:
objective	Avoid liquidity problems of inherited enterprises caused by inheritance taxes
initiation	2005
contents/description of the initiative/measure	Inheritance tax will decrease to 0 within 10 years as long as the sum of salaries will not decrease below 70% of the average sum of salaries of the five years before inheritance. However, a so called removal tax has to be paid if the enterprise is sold or closed after that 10 years.
<b>user based features</b>	
eligibility criteria/target group	Inherited German enterprises
<b>performance based features</b>	
evolution	Still a draft, not yet in Parliament.

## **6 Future issues**

We can see neither more threats nor more opportunities to family enterprises than to any other form of enterprises. There are not many chances to treat family enterprises different from other enterprises as legislation has to be equal and must not refer to special cases. Inheritance Tax will be an issue also in the long run.

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