Stiftung
Familienunternehmen

Press release

Munich, 18 august 2020

The Foundation for Family Businesses presents a model for measuring the impact of German and European legislation on family businesses.

The Foundation for Family Businesses has developed a model that can be used to illustrate the impact of proposed laws on family businesses at an early stage. The objective of the test is for family companies to receive the consideration in the legislative process that they deserve as a cornerstone of our economy.

The model, which was developed by Professor Dr Mathias Habersack (Ludwig-Maximilians-University in Munich), is designed to enable lawmakers to review the impact that planned regulations would have on family companies, and to do so from the start of the legislative process. This "legislative impact study" is already being applied to small and medium-sized enterprises (SMEs). In future, a family company test in Germany and in the European Union will complement the SME test. This new test will include a number of large family companies. Every third company with more than 250 employees is a family business and is thus not considered to be an SME as a result.

"Family companies are a stabilising force in our economy," said Professor Rainer Kirchdörfer, a member of the Executive Board of the Foundation for Family Businesses. "For this reason, lawmakers should review whether family companies will be affected by legal requirements. Laws that were written in the past with mega-corporations in mind can have a dramatic impact on family companies. Our concept will help to identify and prevent these undesired effects from the beginning – in Germany and on the European level."

Professor Habersack added, "The aim of the test is to identify the special negative effects that legislation would have on family businesses and in this way to enable lawmakers to take decisions about the realisation of legislation on the basis of sufficient information."

The special impact that legislation has on family businesses frequently has little to do with the company's size. Rather, it arises from the ownership structures that have been developed over generations. Unlike anonymous corporations with their widely scattered groups of shareholders, family businesses place a high priority on cross-generational stability and independence. In doing so, they also help to create economic stability.

For this reason, a range of key questions that should be asked during the legislative process has been developed in the test to determine the particular impact of proposals on family businesses. The questions focus on aspects of corporate governance, generational succession, the external management of shares in the company, disclosure obligations, the financing of family businesses and the mobility of shareholders.

One example of laws that have a particularly negative effect on family businesses is transparency regulations that require company owners to release personal information. This rule was introduced on the EU level to strengthen the fight against money laundering and the financing of terrorism, but it adversely affects the owners of family businesses who are innocent of these crimes.

Family companies are affected in particular by gender quotas that apply to supervisory boards. By law, certain companies have been required since 2016 to have supervisory boards that are composed of at least 30 percent women. This requirement represents a deep intrusion into the autonomy of a company's owners and can create practical problems if a family consists only of daughters or sons.

Another disadvantage for family companies is that other businesses enjoy a better tax position when drawing on outside capital. Companies that take out loans may deduct them as operating expenses. Family businesses that finance their investments with equity capital or retained profits do not enjoy such tax breaks, thus their sustainable approach to financing disadvantages them in the competition.

"German and European lawmakers have the power to take decisions with the common good in mind. Nonetheless, they should take the impact of their decisions on family businesses into account," Kirchdörfer said. Family businesses are the predominating company structure in Europe: Nine of ten companies in Germany are family businesses. They employ 60 percent of the country's working population. In the European Union, nearly 50 percent of wage earners are employed by family businesses, according to official estimates.

» Download Study „Assessing Regulatory Impact on Family Businesses"

Further information:

Andre Tauber
Head of Communications
Stiftung Familienunternehmen
Prinzregentenstrasse 50
D-80538 Munich, Germany
Phone: +49 (0) 89 / 12 76 400 06
Fax: +49 (0) 89 / 12 76 400 09
Mobile: +49 (0) 172 / 63 190 09
tauber@familienunternehmen.de
www.familienunternehmen.de

@StiftungFamUnt
Explanatory videos