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OBJECT : BUSINESS TRANSMISSION

SOME MEASURES TO PROMOTE BUSINESS
TRANSMISSION

« DUTREIL » PACT

In principle, the transfer, by donation or inheritance, of a company is generating transfer duty. The cost of this transmission may, however, be reduced if the transferred titles are subject to a "Dutreil" Pact. This plan allows to exempt, under certain conditions, transmissions up to 75% of their value.

For this, the titles in question should be the subject of a collective commitment of conservation of at least 2 years, in progress on the day of transmission, taken by the deceased or the donor, with one or more other partners. In addition, during the transmission, each beneficiary must in particular commit to keep the securities transmitted for 4 years.

In order to facilitate the transfer of business, several easements are made to the "Dutreil" Pact as of January 1, 2019. In particular, the "collective" commitment may be taken by a single person. In other words, the Pact is extended to transmissions of single-member companies. In addition, the obligations of the beneficiaries of transferred titles to provide an annual report on the fulfillment of the collective obligation were abolished.

Thus, attestations certifying compliance with the conditions of application of the Plan must be produced only at the beginning and at the end of the regime and, where applicable, at the request of the tax authorities, and only by the beneficiaries of the exemption.

SELLER'S LOAN

When transferring a business, the seller may accept deferred or incremental payment of the price. We are talking about "seller's loan" or "seller's credit". In this case, he may request a staggering of the payment of the income tax on the long-term capital gain realized on this transfer. Until now, only small companies (less than 10 employees, balance sheet total or turnover not exceeding 2 million EUR) could benefited this loan.

Now for the transfer made from January 1, 2019 or after this date, such step-by-step taxation, in the case of a seller's credit, also applies to companies with less than 50 employees and whose total balance or annual turnover does not exceed 10 million euros.

BUYING A COMPANY BY EMPLOYEES

Companies created solely for the purpose of buying out all or part of an companies' shares by its employees benefit, under certain conditions, from a tax credit.

At the moment, this tax advantage is softened enough. Thus, the condition regarding the participation of the minimum number of redeeming employees was abolished. However, in replacement, the other condition appeared according to which, on the day of the business transmission the purchaser employees must be in the company for at least 18 months.

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