



DECREE CONTAINING TAX PROVISIONS RELATING TO INHERITANCE TAX

Dear Partner,

On 22 December, the Walloon government adopted a decree containing tax provisions relating to inheritance tax.

WHAT ARE THE MAIN MEASURES PLANNED?

The most important measure is to extend the period of time during which movable property that has been the subject of an unregistered gift is reintegrated into the estate of the deceased.

As a reminder, when an (indirect) donation is voluntarily presented to the administration in the Walloon Region, the donation registration duties are due at the rate of 3.3% or 5.5%. However, when the (indirect) donation is not registered, it is not taxed as long as the donor survives 3 years after the donation. From now on, the donor's survival period is increased to 5 years and applies to all indirect donations made from 1 January 2022. It should also be remembered that this flagship measure in no way calls into question the very principle of an indirect donation made, without the intervention of a notary, by "hand-to-hand gift" or simple bank transfer.

The rules for the taxation of life insurance policies in the Walloon Region are also clarified in order to put an end to the current legal uncertainties affecting certain situations:

CO-HELD POLICIES WITH 2ND DEATH SETTLEMENT

Concerning policies taken out in co-ownership with settlement at the second death and which continue after the death of the predeceased spouse, the Decree provides for taxing the surviving spouse on half of the surrender value of the policy, but only in the event that the surviving spouse actually surrenders the policy. Therefore, in the absence of a surrender, there is no question of taxing the surviving spouse on half of the surrender value of the policy existing at the time of the first death.

DONATION OF LIFE INSURANCE POLICIES

It is still possible in the Walloon Region to give away the rights to a life insurance policy in order to avoid inheritance tax, but from now on this possibility is limited, as is the case in the Flemish Region, to the surrender value of the policy that served as the basis for the gift tax. As a result, if the life insurance policy increases in value between the day of registration of the gift of the policy and the day of the donor's death, inheritance tax will be payable on the increase in value.

Please speak to your usual contacts if you have any questions in this regard.

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