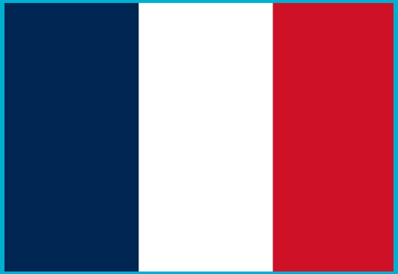
# How do France, Italy and Germany deal with tax exemptions?



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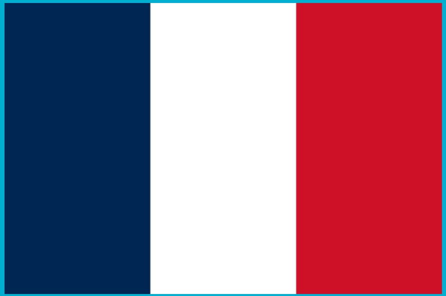
# What is a tax exemption?


- A person is considered to be **tax exempt** when they are ***not imposed on a particular income or transaction***, for example the sale of an asset
- The exemption can be **full** or only **partial** (tax deduction or tax allowance)
- These exemptions are **tax incentive** : the goal is to attract investments to a jurisdiction rather than another by putting in place advantageous tax regimes

# French tax exemptions :

- **Companies**
    - The Dutreil Pact : tax exemption of ¾ of the value of the shares of a company being transmitted
    - Income tax exemptions (on corporate and personal income)
- **Private homes**
    - Capital gains on the sale of immovables
    - Tax exemptions on private homes
- **Allowances**
    - Allowances on donations
- **Taxation of historic monuments**
- **Presentations of Italian and German tax exemptions**
    - Comparative table of all 3 states



# Companies

# The Dutreil Pact

- **Articles 787 B and C of Code général des impôts**
- Very advantageous tax mechanism that allows the transmission (as a gift or inheritance) of a business with a major **tax deduction of 75% of the gift or inheritance tax** (only 25% of the value of the shares is taken into account for the determination of the tax basis)
- Applies to family businesses, but not only!
- If donation happens between a parent and their child, they also benefit from a tax allowance of 100 000€

# The Dutreil Pact : conditions

**Many conditions must be fulfilled to benefit from the tax exemption :**

**Activity of the company :**
Must be industrial, commercial, artisanal or agricultural activity or must be a holding company

**Collective commitment agreement :**
In between the donor for themselves and theirs heirs and other partners, to keep at least 17% of the financial rights and 34% of the voting rights for at least 2 years

Must be ongoing at the time of donation

**Individual commitment agreement :**
At the time of the donation of the shares, each donee or heir must conclude an agreement for themselves and their heirs that they will keep the rights for a minimum of 4 years

The 4 years start being computed at the end of the collective agreement

**Work in the company :**
One of the partners signing the collective agreement or one of the donee or heir must work in the company during the collective commitment period and for 3 years following the transmission date. It should be their main professional activity or they must fulfill a managerial role

# Concrete example of the Dutreil Pact in action

Mr A


Donation to his son

Bakery worth 1 000 000€

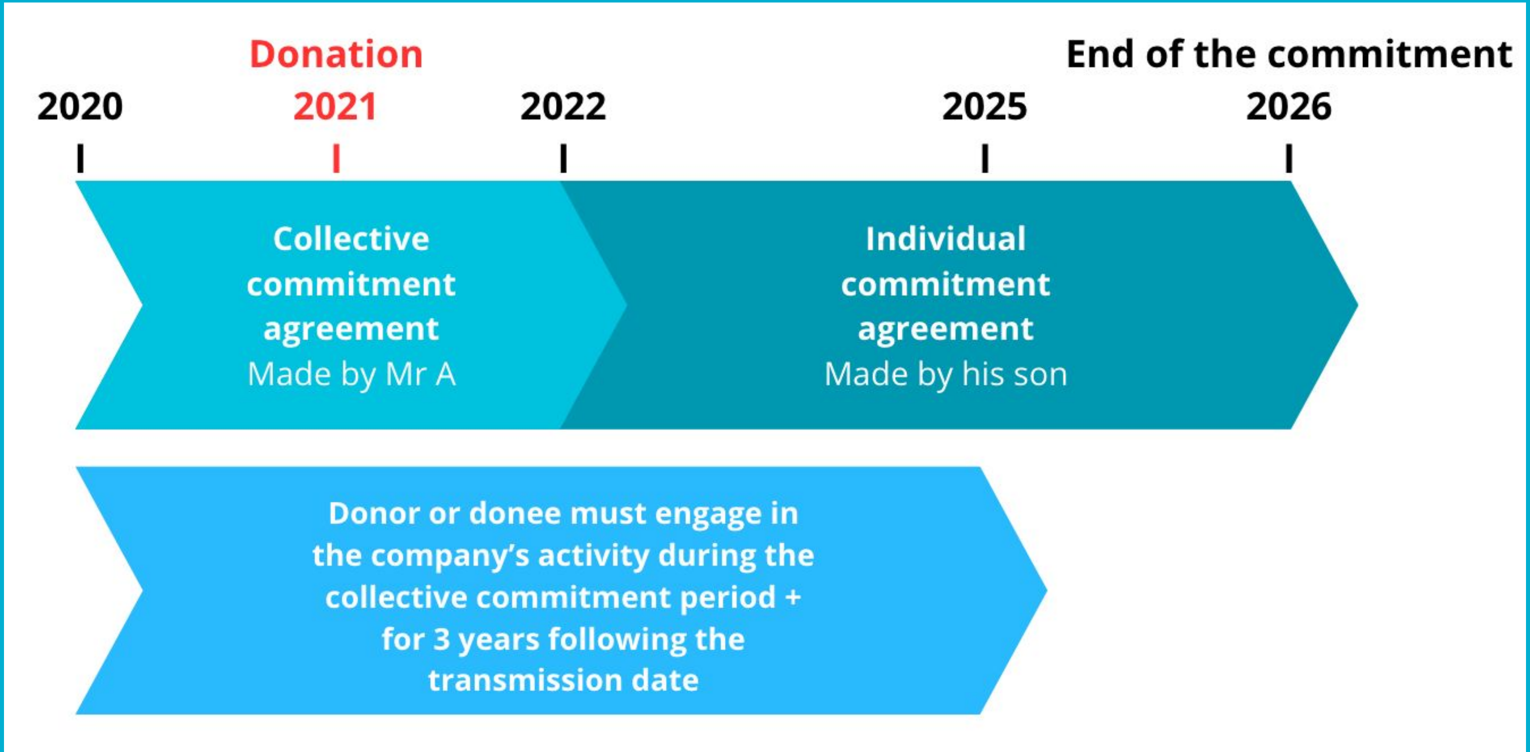
**How will the Dutreil Pact affect the tax due by Mr A's son?**

# Computation of the tax

| | Tax basis (after tax allowance of 100 000€) | Tax due (tax rate of article 777 of Code général des impôts) |
|---|---|---|
| Without the Dutreil Pact | 900 000€ | 212 962€ |
| With the Dutreil Pact | 150 000€ | 28 194€ |

The effective tax rate therefore went down from 21% to 3%

# Dutreil Pact timeline



# Comparison with German and Italian taxation

- All 3 states share the same goal : **supporting and encouraging the donation of family businesses by lessening the tax burden on the people inheriting a business**
- The specific conditions one must fulfill to benefit from the exemption and the amount of the exemption may differ, but they all share the same goal : to ensure the **continuity of the economic activity** and the **preservation of jobs**

# Income tax exemptions

- Exemptions on Personal Income Tax
- Exemptions on Corporate Income Tax

# Personal Income Tax exemptions

- Tax allowance up to a certain income threshold :
  - 11 294€ per year in France
  - 10 347€ per year in Germany

- PIT deduction on salaries :
  - 10% in France and 1200€ in Germany → professional fees

In Italy : neither free tax allowance  nor deduction on salaries

→ But tax deductions for some essential expenses

# Corporate Income Tax exemptions

Exemptions regarding the area of establishment

- 8 types of areas in which companies benefits CIT exemptions (ZFU-TE, ZFRR, ZFRR+, ...)
- **Example of ZFU-TE :**

→ Under certain terms : **total exemption** of CIT for 5 years. Then, exemption of 60%, 40% and 20% for the 3 following fiscal years

→ Purpose : to revitalize the less economically efficient areas.

# Corporate Income Tax exemptions

Exemption for new companies

→ Total exemption for 2 years, then exemption of 75%, 50% and 25% per fiscal year

- Terms : being located in certain areas, new activity, legal independence

# Corporate Income Tax exemptions

Young innovative companies

- Terms :
  - Created less than 8 years ago
  - < 250 employees and < 50M turnover
  - **R&D expenses = at least 15% of the tax deductible expenses each financial year**

→ Exemption for 2 profitable fiscal years (100% and 50%) not necessarily consecutive

Profits on industrial property

Reduced rate of 10% for a fraction of the profits

# Corporate Income Tax exemptions

Conclusion :

- France allows various and numerous CIT exemptions to dynamize certain areas or encourage young companies

- In Germany, there is no such CIT exemptions

  → Young companies are only supported by subsidies or possibilities of loss utilization

# Private homes

# Capital gains on property

FRANCE

Principal exemption :

- Main residence + outbuildings
- Property under € 15 000

# Other exemptions :

Linked to the characteristics of the asset sold :

- Use the sale price to buy or build your own home within 2 years
- Not have owned a principal residence in the 4 years preceding the sale

Linked to the seller :

- People who have an old-age pension
- Person living in a retirement home
- A home for disabled people

2 years between entry into a nursing home and sale

Linked to the buyer :

- Sold directly or indirectly to a social housing organisation

# Allowance

Deductions for length of ownership :

| Holding period | Allowance rate per year of ownership | |
|---|---|---|
| | Income tax basis | Basis for social contributions |
| Up to 5 years | 0% | 0% |
| Years 6 to 21 | 6% | 1,65% |
| 22nd year completed | 4% | 1,65% |
| Beyond the 22nd year | Exemption | 9% |
| Beyond the 30th year | Exemption | Exemption |

# Exceptional allowances

- The purchaser undertakes to demolish the existing building
- Undertakes to construct one or more collective housing buildings
- Promise to sell must be signed between 1 January 2024 and 31 December 2025

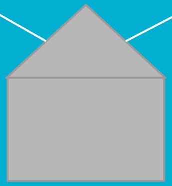
→ 70 % tax-free

# Capital gains on property

ITALY

Ordinary tax system

Substitute tax : 26 %



Exemption when the property has been owned for more than 5 years, whether as a main residence or otherwise.

Other circumstances of exemption :

- Property acquired by inheritance // donation
- Residence in the ben for half the time from the date of purchase

# Property wealth tax


# Exemptions :

- Total: in favour of working professionals

- Partial: in favour of woods, forests, agricultural landholding groups, shares in forestry groups, etc.

→ Focus on total exemption:

- Possible for shares representing real estate used in a professional, industrial, commercial, craft, agricultural or liberal activity.
- the owner's main professional activity must be in the same company
- the property or rights necessary for the exercise of the profession

# Allowances

# The different tax allowances applicable to donations in France

- In France : gift tax is linked to inheritance tax
- There are different allowances applicable depending on the relationship between the two parties
- Art 790 and seq. of the CGI

| Family relationship | Donation allowance |
|---|---|
| Child, parent | €100,000 |
| Spouse, civil union partner | €80,724 |
| Brother, sister | €15,932 |
| Nephew, niece | €7,967 |
| Grandchildren | €31,865 |
| Great-grandchildren | €5,310 |
| Disabled person | + €159,325 (cumulative) |
| Cohabitants, other heirs | - |

# Payment of gift tax and the different rates applicable

- Principle : tax on gifts payable by the donee
- However, current legislation allows the donor to pay them himself instead of the donee

The different rates applicable to gifts :

| Family relationship | Tax rates |
|---|---|
| Child, parent | 5% to 45% |
| Spouse, civil union partner | 5 to 45% |
| Brother, sister | 35 to 45% |
| Nephew, niece | 55% |
| Grandchildren | 5% to 45% |
| Great-grandchildren | |
| Cohabitants, other heirs | 60% |

# Comparison between the French, German and Italian systems of tax allowances for donations between living persons

- The 3 countries implement different thresholds for tax relief : the aim is to enable taxpayers to benefit from more advantageous taxation.

- From a tax point of view, **gifts are currently particularly attractive in Italy.** Germany is also more attractive than France thanks to the tax allowances granted to spouses, PACS partners, children and grandchildren.

# Historic monuments

MONUMENT

HISTORIQUE

# Taxation of historic monuments in France (comparison with Italy and Germany) :

- Tax regimes applicable to buildings protected as historic monuments and certified by the "Fondation du Patrimoine"
- 5 French tax exemption or deduction schemes

# Deduction of property expenses relating to historic monuments that do not generate income

**Aim :**

Ensure conservation of the property's heritage

**System :**

Deduction of property expenses from overall income for the year

**Justification :**

- offset the additional costs incurred by the owner
- help the region to be more attractive for tourists

**Tax cost :**

- 40 M in 2020

# Unlimited deduction from overall income of property losses incurred by owners

**System :**

Losses related to classified building can be deducted from overall income

Limit : 6th year

**Conditions :**

- Undertaking to retain ownership of the property for at least fifteen years from the date of acquisition
- Direct ownership of the property
- Co-ownership rule

**Aim :**

- Counterpart for the obligations placed on private owners to conserve and enhance their buildings
- Essential to maintain heritage in good condition and avoid sale

**Tax cost :**

- 62 M in 2020

# Tax relief for expenditure on the restoration of buildings in outstanding heritage sites: new Malraux scheme

**Aim :**

The 2009 Finance Act reformed the "Malraux" scheme:

- Transforms the system of deducting expenses into a reduction in income tax
- Adjusts the conditions for applying the scheme (capping mechanism)

**System :**

Tax reduction is :

- 22 %
- increased to 30% where there is an approved conservation and enhancement plan.
- 30% for areas covered by the new urban renewal programme

Limit : 400 000 €

**Justification :**

Public policy to develop and redevelop town centres + used to renovate a large number of buildings in protected areas.

Helps to preserve architectural heritage and contributes to housing policy.

**Tax cost :**

- 26 M in 2020

# Registration and stamp duties


**System :**

Exemption from gratuitous transfer duties for:

- listed buildings
- movable and immovable property by destination that constitutes their historical or artistic complement,

**Conditions :**

The heirs, legatees or donees **sign an agreement** for an indefinite period setting out the terms of public access and the conditions for the upkeep of the property concerned.

**Aim :**

- To avoid dispersal of the heritage
- present to the public movable collections that are related to the exempted monument.

**Justification :**

Encourages private owners to keep protected property in their own hands or those of their families.

# VAT : reduced rate

**System :**

- Reduced VAT rate of **10%**
- for improvements, conversions, fittings and maintenance work carried out on residential premises completed more than 2 years ago.

**Conditions :**

Application of this rate will depend on whether the premises are used for residential purposes.

# German tax exemptions - General Information:

- Inheritance and Gift Tax Act (ErbStG)
- Worldwide inheritance or gift, if either the deceased/ donor or the beneficiary/donee is resident Germany at the time or death or at the time the gift was granted
- Basis of assessment: fair market value of the acquisiti

# German tax exemptions :

- Tax Rates and Allowances
- Private homes
    - Primary Residences
    - Rented residential property
- Companies
    - sec. 13a, 13b ErbStG

# The different tax allowances applicable to inheritance and gift taxation in Germany

- The tax allowances applicable in Germany are determined according to the personal relationship of the deceased/donor and the beneficiary/donee (sec. 15, 16 ErbStG)

| Value (up to) | Category I | Category II | Category III |
|---|---|---|---|
| 75,000 | 7 % | 15 % | 30 % |
| 300,000 | 11 % | 20 % | 30 % |
| 600,000 | 15 % | 25 % | 30 % |
| 6,000,000 | 19 % | 30 % | 30 % |
| 13,000,000 | 23 % | 35 % | 50 % |
| 26,000,000 | 27 % | 40 % | 50 % |
| >26,000,000 | 30 % | 43 % | 50 % |

| **Family Relationship** | **Tax allowance (€)** |
|---|---|
| spouses and civil partners | 500,000 |
| Children | 400,000 |
| Grandchildren | 200,000 |
| Other persons in category I | 100,000 |
| Persons in category II + III | 20,000 |

# Private Homes

- Residence assets and other movable tangible assets: € 53,000/ € 12,000 (sec. 13 Abs. 1Nr. 1 ErbStG)
- Primary Residence inherited or donated among spouses or inherited by (grand-) children:  100% tax free (sec. 13 para. 1 nr. 4a - 4c)
- Rented residential property: 10 %  (sec. 13d ErbStG)

# Companies

- Protecting family businesses and companies
    - Agricultural and forestry assets
    - Business assets of an entire or partial business enterprises
    - Participations in business partnerships
    - Equity investments (if the deceased or donor had a direct participation of at least 25%)
    - Etc.

# Companies

- 85 % of the preferential business assets can be excluded from the tax base, if
    - The business is to be continued for the next 5 years
    - The majority of jobs is to be maintained.
- The fair market value is determined primarily on the basis of sales between third parties that occurred within the last year or a possible purchase price must be determined, taking into account the earnings prospects of the business.

# Companies

- Only some of the assets are tax-privileged: "productive assets"
- Business assets are reduced by the "administrative assets".
- Administrative assets include items that are regularly used for asset management activities and not for business activities.
- The tax exemption is only applicable if the administrative assets do not exceed certain limits.

# Companies

Administrative assets (sec. 13b ErbStG):

- Rented properties
- Shares in corporations with a shareholding of 25 % or less
- Works of art, libraries, etc.
- Securities and comparable receivables

# Italian tax exemptions

…will now be presented by our Italian and German counterparts