

Newsletter



Robinson Sheppard Shapiro
Avocats • Lawyers

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Duties on the transfer of an immovable: New exemptions when a partnership is a party

*Certain corporate reorganizations allow the transfer of an immovable to take place without transfer duties. Generally, such an exemption will be possible when, among other cases, the seller (the “**transferor**”) or the buyer (the “**transferee**”) of the immovable is a legal person (typically, a company) and certain other conditions are met, such as ownership of shares of the capital stock of the transferee carrying at least 90% of the voting rights. However, until now, no such exemption was allowed when a **partnership** (general or limited) is a party to the transfer.*

Transfers made on or after December 21, 2017 will be exempt from transfer duties when a partnership is a party under conditions similar to those already enacted for legal persons. In summary, the amendment will allow an exemption of transfer duties when a partnership is a party to the transfer where the participation of a partner in the income or losses of the partnership is at least 90%.

From a natural person to the partnership. An exemption will be available from the payment of transfer duties at the time of the transfer of an immovable made by a transferor who is a natural person to a transferee that is a partnership if, immediately after the transfer, the transferor’s share of the income

or losses of the partnership is at least 90%.

From a partnership to a natural person.

An exemption will also be available from the payment of transfer duties where the transfer of an immovable is made by a transferor that is a partnership to a transferee who is a natural person if, throughout the 24-month period immediately preceding the transfer, the transferee’s share of the income or losses of the partnership is at least 90%. This condition may be relaxed in cases where the partnership was constituted less than 24 months before the transfer of the immovable.



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Legal person and the partnership. The exemption from the payment of transfer duties for closely related legal persons applies to the transfer of an immovable made by a transferor or a transferee that is a partnership, with the necessary adaptations. The condition related to ownership of shares giving the holder a certain percentage of the vote will be replaced with a condition related to the percentage of income or losses of the partnership.

Denial of the exemption — 24-month period. When a transfer of an immovable was exempted because one party was a partnership, the transferee will have to notify the municipality in which the immovable is located where, during

the 24-month period following the date of transfer of the immovable, the exemption condition ceases to be met. Without getting into details, this duty to notify will be relaxed upon (i) the dissolution of the transferor or transferee; (ii) the loss of the transferor's quality of partner for an unexpected reason such as his death or bankruptcy or the institution of protective supervision of him; or (iii) in certain mergers involving the legal person that was a party to the transfer.

You are planning a real estate transaction and you think that this exemption could apply to your deal? Do not hesitate to contact the author for more information.

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