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Concerned market: France



## Capitalisation contract

### The capitalisation contract, an asset management tool

Far more than a simple investment, the capitalisation contract forms part of a real wealth management strategy. While it has similarities with life insurance, the capitalisation contract must be considered from the point of view of organising succession and diversifying investments, particularly if the abatements associated with life insurance have already been used.

### Who can subscribe a capitalisation contract?

It can be subscribed by either a natural person or by a legal person, subject to certain conditions.

### What are the advantages of a capitalisation contract as regards passing on wealth?

The capitalisation contract can prove complementary to life insurance as part of wealth planning. It allows subscribers to organise and provide for transmission during their lifetime or thereafter:

#### 1. Death of the subscriber

On the subscriber's death, the policy is not terminated but becomes part of the estate. The value of the policy at the time of death reverts to the subscriber's heirs in accordance with the order of succession, or to one of them in accordance with the terms of the will if there is one.

The heirs may:

- surrender the contract (the agreement of all the heirs is necessary in the case of undivided ownership);
- decide to share the assets of the estate among themselves and assign the contract to one of the heirs; the other heirs being assigned assets of equivalent value from the estate;
- keep the contract: the heirs will replace the initial subscriber and acquire his or her rights. In this case, the capitalisation contract is transferred to the heirs while preserving its former tax status.

N.B. In order to avoid situations of undivided ownership, it is advisable to provide for as many capitalisation contracts as there are heirs.

#### 2. Transmission of the capitalisation contract *inter vivos* by gift or bequest:

The gift must be made solely by notarised deed. It must be the subject of a declaration by the donor to the tax authorities,

and may give rise to the payment of tax, after application of abatements depending on the degree of parentage.

The transmission may be made:

- **outright:** the donor entirely relinquishes the contract, which is then transferred to the donee. The prior tax status of the contract benefits the donee;
- **with reserve of usufruct:** this solution is often used by parents or grandparents wishing to make a gift to their children or grandchildren while at the same time reserving the possibility of continuing to receive the income on their investment;
- **with temporary reserve of usufruct:** a rarely used but attractive solution when one wishes to provide financial support for a limited time (e.g. to pay for higher education fees) while at the same time ensuring favourable tax treatment. However, this transmission must not be shown to be fictitious or to have the sole aim of reducing tax. In this case, the tax authorities would reserve the right to apply the procedure for the suppression of the abuse of law.

These gifts will benefit from the tax abatements which will be renewed every 10 years.

In certain circumstances the capitalisation contract is also a suitable vehicle for re-investing capital that has already been split.

### What are the tax advantages?

The tax regime in the case of surrenders is exactly the same as for life insurance.

Concerning the Solidarity Wealth Tax (ISF), the capitalisation contract is subject to the ISF only for its nominal value, i.e. for the amount of net premiums paid. Thus capitalised interest escapes being subject to the ISF, which is particularly attractive as the years go by.

#### Conclusion

Depending on the subscriber's particular problems and/or objectives, it is possible to use the capitalisation contract to meet certain expectations:



- to protect the surviving spouse: by transferring usufruct of the policy to the surviving spouse;
- to transmit to one's descendants: by transferring the bare ownership of the contract to children, whether minors or of legal age, with the possibility of inserting re-investment or non-availability clauses;
- to serve as financial guarantees for obtaining loans;
- to reduce inheritance tax when the ceiling on exemption for life insurance has been reached.

In order to make the best possible use of the capitalisation contract, we need to have an overall view of your financial and asset situation. ■

Baloise Vie Luxembourg S.A. International and its multilingual team of experts are at your disposal should you require any further information regarding the content of this article or any other subject.

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