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TAKEOVER OF A SOLE PROPRIETOR AND PARTNERSHIP FIRM INTO COMPANY

- Check whether Sole Proprietor (**"SP"**) or Partnership Firm (**"PF"**) has any immoveable property? If yes, stamp duty needs to be paid on its transfer. Approx. stamp duty is 5% of market value. Moveable property can be transferred on Rs. 100/- stamp paper.
- If all assets and liabilities of SP or PF are transferred together with business + SP holds minimum 50% equity stake / all partners of PF holds 100% equity stake for a period of 5 years then no capital gains tax.
- In case Promoter is not willing to pay stamp duty (no promoters will) then transfer selective assets and make sure consideration price (which could be in cash or kind) is not over and above fair market value or book value to avoid payment of capital gains tax.
- Execute a Assets and Business Takeover Agreement
- Get it approved by passing Special Resolution at EGM of the Company
- Check whether they have any input tax credit under S. Tax or Excise
- Check VAT / GST angle also
- Whether Promoters wish to apply for Govt. Tender then consider from this angle also
- Transfer of on-roll employees. If SP / PF covered under Provident Fund, ESI or other labour laws then consider intimating them this fact also.