IPTI Xtracts

Property Tax and Assessment News from Around the World

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CONTENTS

ATOZ INSIGHTS

As every year in Luxembourg, the fall season announces the publication of the draft budget law which in turn foreshadows the winter Holiday Season. And this time has come.

On 12 October 2022, the 2023 draft budget law was presented to Parliament. As expected, due to the current period of crisis and uncertainty, the proposed tax measures only amend existing tax provisions to modify or clarify their scope of application, such as, for example, the clarification about the reverse hybrid rule. We describe below the clarifications proposed in the 2023 draft budget law.

On 10 October 2022, another draft law was presented to the Luxembourg parliament with the aim of carrying out the long-awaited reform of the Luxembourg property tax. This reform is based on three major axes: a modernisation of the property tax itself and the introduction of two new taxes encouraging property owners to mobilise building land and uninhabited dwellings, to combat the increasing housing shortage in Luxembourg. We will explain these rules and the timing for their application.

At European level, the updated list of non-cooperative jurisdictions for tax purposes was published on 12 October 2022. This list directly impacts the scope of the Luxembourg corporate income tax deduction of interest and royalty expenses due to entities located in non-cooperative tax jurisdictions, the requirement to disclose transactions with entities located in non-cooperative jurisdictions and the DAC 6 rules. We provide an overview of the impacts of the updated list in Luxembourg.

The EU Commission is also working on various new initiatives: On 12 October 2022, the EU Commission closed a public consultation regarding a proposal for a Council Directive to tackle tax advisers and other professionals rendering tax advice that facilitate tax evasion and aggressive tax planning. We provide an overview of the questionnaire and analyse to which extent there is a real need for this initiative. Moreover, on 17 October 2022, the European Commission announced the launch of a public consultation on the so-called BEFIT, a new framework for EU corporate taxation. The initiative would introduce a common set of rules for EU companies to calculate their taxable base while ensuring a more effective allocation of profits between EU countries, based on a formula. BEFIT strongly resembles the previous Common Consolidated Corporate Tax Base proposal, which has been withdrawn. We analyse this initiative and its consequences on the EU corporate tax landscape.

From a VAT point of view, a Luxembourg draft law published on 26 October 2022 implements anti-inflation measures aiming to help households and businesses and one of the proposed measures is a Luxembourg VAT rates decrease. We describe this measure and its impact on consumers and businesses.

In a recent case, the CJEU clarified the notion of "granting of credit" for the purpose of determining the scope of VAT exempt financing activities. In this respect, the CJEU ruled that the acquisition by a securitisation vehicle of future proceeds from receivables of an originator should be assimilated to a VAT exempt financing activity. We explain the decision of the Court and its consequences in Luxembourg

On 29 April 2022, the Luxembourg District Court made a referral to the CJEU for a preliminary ruling in the case on the VAT treatment of activities carried out by a natural person as a member of the board of directors of a public limited company. The CJEU will have to arbitrate between two opposing positions on this complex question. We explain what is at stake in this case.

On 5 October 2022, the Council of the European Union endorsed and published the final compromise text of the Regulation on Markets in Crypto-Assets which is meant to "protect investors and preserve financial stability, while allowing innovation and fostering the attractiveness of the crypto-asset sector". Few days later, the European Parliament Committee on Economic and Monetary Affairs also approved a provisional deal on the Transfer of Funds Regulation that would require exchanges to report any crypto transactions to authorities. We describe these new regulations, which represent a significant milestone in the development of the crypto industry in Europe.

THE PROPERTY TAX REFORM BILL

To clamp down on speculation and the growth of property prices, Bill No. 8082 ("Property Bill") was filed with the Luxembourg Parliament on 10 October 2022 reforming the land tax (impôt foncier - "New IFON") and introducing two new national taxes: a land mobilisation tax (impôt à la mobilisation de terrains - "IMOB") and a tax on the non-occupation of housing (impôt sur la non-occupation de logements - "INOL").

The New IFON

The New IFON will continue to apply to all owners of land in Luxembourg (with a lump sum tax deduction of EUR 2,000 for the primary residence - subject to conditions).

The main point of the reform is the update of the land values which have not changed since 1941. The revised new values of land is largely conditioned by the building potential according to the classification in the General Development Plans (PAG).

For the rest, the calculation method remains unchanged, i.e. the (revised) base value will be multiplied by a municipal tax rate set by each municipalities (within a range of 9% to 11%).

The New IFON is levied yearly by municipalities and is tax deductible for individual and corporate income tax purposes.

An estimation can be made on a dedicated website.

The IMOB

The IMOB aims to create an incentive for the actual construction of buildings on land earmarked for urbanisation. It will require the establishment of a national register of undeveloped land.

The IMOB will be calculated on the same basis as the New IFON but will be multiplied by a progressive tax rate increasing with the number of years the land remains undeveloped. A lump sum deduction from the basic value is foreseen for taxpayers younger than 25 or having children under 25.

The IMOB is not tax deductible.

The INOL

The INOL aims to tax a building constructed for residential purposes that remains unoccupied (i.e. when no natural person is registered in it for a period of six months). To establish that a dwelling is not occupied, a national register of buildings and dwellings will be created.

The INOL will amount to EUR 3,000 per dwelling for the first year. The tax will increase by EUR 900 per year up to a maximum of EUR 7,500. If the property remains unoccupied, this amount will be due annually.

The INOL is not tax deductible.