

Breaking Tax News Tackling taxes



Tax Law Amendments Planned for 2012

The Austrian government recently announced tax law amendments for reducing the budget deficit. In the following, we would like to provide a brief overview on the planned amendments.

Taxation of capital gains from transfer of real estate

Up to now, capital gains from selling privately owned real estate have been tax free; that was only if real estate had been held for a minimum of 10 years (speculation period). Real estate sold within the **speculation period** was taxable at the personal effective income tax rate (up to 50 %). According to the planned amendments, the speculation period shall be abolished. Instead of the regular effective tax rate, gains shall be taxed at a flat rate of 25 %. The new rule shall be applicable on real estate acquired after 1 April 2002 and sold after 1 April 2012.

For real estate acquired before 1 April 2002, a **tax on revenues from selling real estate** shall be introduced. The tax rate shall be 3.5 %. If real estate had been acquired before 1 April 2002, the tax rate shall be increased to 15 %; the increased tax rate only applies if real estate has been rededicated after 1 January 1988. Again, that is only if sold after 1 April 2012.

However, the new rules shall not apply for buildings erected by the tax payer himself, condemnations and real estate, which had been used as a principal residence for at least 2 years since acquisition (or for 5 years within the last 10 years before sale).

Temporary solidarity tax until 2016

Employed tax payers with income above EUR 13.280 per month shall be entitled to pay higher taxes (solidarity tax) from 2013 to 2016 for their **13th/14th salaries**. The tax rate shall remain at 6 % for monthly gross-income up to EUR 13.280, but then gradually increase to 50 % at EUR 42.448.

Also the **tax allowance** from profits for **entrepreneurs** („Gewinnfreibetrag“) shall be **reduced** in a graded manner from 13 % to 4.5 % for annual profits between EUR 175.000 and EUR 580.001. Also this rule shall be applicable from 2013 to 2016 only .

Tax Group – Limitation deduction of foreign losses

According to the planned amendments, losses of foreign group members have to be calculated according to Austrian tax law in order to achieve a deduction in Austria. However, deduction in Austria shall be capped by the amount of losses actually suffered according to foreign law. This holds true for losses of foreign group members as well as for foreign permanent establishments. So far, a deduction of the total loss calculated according to Austrian tax law has been possible. The amended rule shall be applicable as of the tax period of 2012.

Value Added Tax (VAT)

Landlords shall be entitled to input tax deductions only if also tenants are entitled to input tax deduction at full extent. This new rule would primarily concern rental agreements with public bodies, banks and insurance companies. However, new rules shall only apply to contracts concluded after 1 May 2012. Furthermore, the transition rule for corrections of input tax deductions shall be extended from 10 to 20 years.

R&D incentives: more incentives for contract research, tightened supervision

The cap for R&D premiums for contract research shall be extended from EUR 100.000 to EUR 1m per year. However, requirements for qualifying for R&D premiums shall be checked more strictly. The extended cap shall be applicable for the current year as of 1 January 2012.

Home-saving and private retirement insurance incentives cut by half

Public incentives granted for home saving contracts and private retirement insurances shall be cut by half. Thus, the minimum-premium for home-saving contracts shall be reduced from 3 % to 1.5 %; the maximum shall be 4 % instead of 8 %. Also the premium for private retirement insurance contracts shall be reduced to 2.75 % instead of 5.5 %. The lower rates shall apply as of 2013, whereas the reduced premium for private insurance contracts shall be limited until 2016.

So far, only announcements of the government have been published. The further developments of enactment therefore remain to be seen.

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