

Breaking Tax News Tackling taxes



Governmental Bills: Reform of Real Estate Transfer Tax and Tax Law due to Federal Budget 2014

Real Estate Transfer Tax (RETT)

As reported in our [BTN No. 6/2014](#), the Constitutional Court (VfGH) ruled that the regulations under Sec. 6 RETT Act were unconstitutional and established the deadline for amendments of June 1, 2014. The Governmental Bill partly deviates from the initial draft for legal appraisal.

In case of acquisitions within the closer family circle the triple of the tax value serves as tax base and the applicable reduced tax rate amounts to 2%. In the governmental bill the **definition of the closer family circle** was changed and has now become **narrower**. Preferential treatment shall no longer be granted to siblings, nieces, nephews and their relatives by marriage (except for children-in-law).

For transfers of **real estate used in agriculture and forestry** henceforth the **single tax value** shall serve as tax base in certain cases (transfer within closer family circle, all shares come to be held by a single shareholder, reorganization according to Reorganization Tax Act).

For transfers of real estate within a group of companies the tax base is the fair market value. Also the remaining differences in the tax base for RETT and entry fees remain unchanged (see [BTN No. 6/2014](#)).

The **tax exempt amount of EUR 365,000** can – unlike foreseen in the draft for legal appraisal – only be applied in case of **transfers without consideration** within the **closer family circle**. A transfer is carried out without consideration if a consideration does not exist or cannot be determined or if the consideration for the acquisition of real estate used in agriculture and forestry is lower than the single tax value of the real estate. An acquisition is in all other cases made without consideration, if the

consideration is lower than the triple of the tax value or lower than 30% of the fair market value, if the latter is proven.

Tax Law due to Federal Budget 2014 („BBG 2014“) Clarification regarding taxation of voluntary severance pay.

The governmental bill to BBG 2014 contains with regards to amendments of the Income Tax Act a clarification concerning the taxation of voluntary severance pay. The beneficial tax rate of 6% does neither apply to severance pay nor to payments made for resigning from employment for future wage payment periods.

CITA: Non-deductibility for cost of procuring money and additional expenses.

The Supreme Administrative Court (VwGH) recently ruled that the definition of the term “interest” related to the debt financing of the acquisition of shareholdings according to Sec. 10 CITA belonging to operating assets is to be understood in a broad sense. Hence, cost of procuring money and additional expenses were found deductible for corporate income tax purposes (VwGH 27.2.2014, 2011/15/0199). According to the governmental bill the reaction to this decision will be an amendment to Sec. 11 (1) 4 CITA. The law shall henceforth explicitly prohibit the deductibility for cost of procuring money and additional expenses.

If further changes to the foreseen amendments will be made in the legislation process remains to be seen. We will keep you informed.

Your Deloitte Tax Advisor will be happy to answer your questions.

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