

FTT Newsletter

A Round-Up of FTT developments across Europe



Following the news about the postponement of the application of Italian FTT to in scope derivatives (see below), there now seems to be public acknowledgement from the European Commission that the EU FTT will be delayed beyond the 1 January 2014 implementation date.

According to reports in the Italian press, the application of the Italian FTT (“IFTT”) on equity derivatives will be postponed until 1 September 2013 and the payment date for IFTT on equities and derivatives will be postponed until 16 October 2013.

While there have been no material movements with respect to the EU FTT, there has been a development in relation to French FTT. As a reminder, the French FTT came into force on 1 August 2012 and applies to transfers of listed shares issued by companies whose head office is in France with a market capitalisation of over €1bn. On 1 December 2012, French FTT was extended to apply to depositary receipts over underlying French shares.

Last, we would like to recall the upcoming live streaming WebCast on 26th June 2013, 09:00 – 10:00 (BST), where five of our most respected EMEA FSI FTT Leaders will be discussing the issues facing Algirdas and the rest of the EU Commission. Details were circulated via our recent copy of FTT news.

EU FTT



An update has been posted on the European Commission Taxation and Customs Union website which states the following: “If agreement is found before the end of 2013, and there is a speedy transposition into national law by participating Member States, this common framework for an FTT could still enter into force towards the middle of 2014”. While a delay will not come as a surprise, this does reveal that the European Commission is beginning to acknowledge publicly that the 1 January 2014 start date will not be achieved. In our view the mid 2014 date quoted remains ambitious and it remains questionable whether the required process can be completed by then.

MEPs of the Committee on Economic and Monetary Affairs (ECON) voted in favour of implementing enhanced cooperation for FTT. This vote is procedural and has little practical impact on the progress of the EU FTT. Negotiations and discussions between the Member States continue and UK’s legal challenge against the EU FTT remains pending.

Italy



According to reports in the Italian press, the implementation date of the IFTT on derivatives will be postponed until 1 September 2013 and the first payment date for the IFTT will be postponed until 16 October 2013. The IFTT was due to apply to equity derivatives from 1 July 2013 and the first payment date was originally 16 July 2013. However the Italian tax authorities to date have not provided any substantive information on the mechanics of making payments, which perhaps made this latter postponement inevitable. Financial institutions affected by the IFTT should note this change once officially released and ensure that systems are in due course adjusted to reflect these new dates to avoid any IFTT charges being inadvertently recorded. [here](#).

France



The French tax authorities have issued a draft update to their Statement of Practice on the French FTT. This update has been circulated for consultation so could still be subject to change.

In its current form, the updated statement of practice incorporates clarifications made previously. Notable items include the following:

- Scrip dividends (that is, dividends paid in shares) are out of scope of French FTT
- Fund mergers may benefit from an exemption to French FTT
- French FTT obligations can be delegated by the accountable person, but it is still the accountable person who remains responsible.

Any accountable parties presently involved in the payment of scrip dividends should review this practice to ensure that French FTT is not being unnecessary charged. Accountable parties may also wish to consider delegating their compliance obligations to a centralised group company or specialist provider.

In addition, the following clarifications are made around netting:

- The Net Buying Position ("NBP") should be computed on a settlement date basis
- The NBP is calculated per security
- The taxable basis of an Investment Service Provider ("ISP") is computed by adding the individual NBPs for each different security
- The NBP is calculated for each client of the ISP
- The NBP should be calculated for each ISP. This means that transactions for the same client by different ISPs cannot be aggregated.

While many in the market will have been following this approach in any event, we would therefore recommend that ISPs and other accountable parties review their systems and processes to ensure that their netting practices are compliant with the above clarifications. The following example illustrates the clarified points:

<i>Settlement Date</i>	<i>Client</i>	<i>Security</i>	<i>Price per share</i>	<i>Buy</i>	<i>Sell</i>	<i>NBP</i>
1/06	X	A	50	150	50	5000 (100 shares @ 50)
1/06	Y	B	20	200	180	400 (20 shares @ 20)
Tax due by ISP						5400x0.2% = €10.80

Although more substantial changes have been discussed previously and are anticipated, they would require a change of law and are not included in the draft update. Furthermore, as it becomes increasingly likely that the EU FTT will be delayed beyond the proposed 1 January 2014 implementation date, additional changes to the French FTT can be expected.

© 2013 Deloitte Tax Wirtschaftsprüfungs GmbH
Renngasse 1/Freyung | 1010 Wien
Gesellschaftssitz Wien | Handelsgericht Wien | FN 81343 y

Deloitte bezieht sich auf Deloitte Touche Tohmatsu Limited, eine "UK private company limited by guarantee" und/oder ihr Netzwerk von Mitgliedsunternehmen. Jedes Mitgliedsunternehmen ist rechtlich selbstständig und unabhängig. Nähere Informationen über die rechtliche Struktur von Deloitte Touche Tohmatsu Limited und ihrer Mitgliedsunternehmen finden Sie unter www.deloitte.com/about.