Belgian government approves option to tax B2B immovable letting

As part of the 23 March 2018 budgetary control meeting, the Belgian government approved the long awaited VAT reform that will introduce the possibility for landlords to opt for the application of VAT to immovable letting agreements concluded with professional tenants. The new regulation’s entry into force is planned for 1 October 2018.

Background

Immovable letting is currently exempt from VAT in Belgium, apart from several specific exceptions. This VAT exemption blocks any upstream VAT incurred on the property at owner level.

As part of the ‘Summer Agreement’, the Belgian government announced towards the end of July 2017 that it planned to introduce a new optional scheme applying VAT to immovable letting between businesses. However, this plan was unexpectedly abandoned after government meetings in October 2017.

During the budgetary control process for 2018, the measure was eventually approved. The new regulation will only apply for newly constructed buildings (including severely renovated existing buildings).

Option for B2B immovable letting
The new regulation will allow the landlord and tenant to jointly opt to subject to VAT rental payments. This option is only possible to the extent that the leased building is used by the tenant for business operations, for which said tenant qualifies as a VAT taxable person.

Where the tenant is a non-taxable person (e.g. public body without any economic activities, private individual, etc.), the option will not be possible.

Only for new buildings

The option to apply VAT will only be possible for newly constructed buildings from 1 October 2018. In practice, this would mean that only buildings (projects) for which no VAT has become due on construction or planning activities before 1 October 2018 would be eligible for the option. Existing properties (or buildings where work or planning has started before 1 October 2018) will be excluded. Hence, immovable letting agreements on such buildings cannot be subject to VAT under the newly created optional regime.

An option to apply VAT to immovable letting will also be possible for buildings that will be significantly renovated to a point where a property will have become a new building again, for VAT purposes, upon completion of renovation works.

Longer VAT recapture period

If the parties opt to apply VAT to immovable letting, the VAT recapture period for the building will be extended from 15 years to 25 years. This entails that where a building would not be let with an option for VAT for a certain period during this 25 year period, a partial VAT recapture will have to be carried out.

Short term rent

In addition to the optional regime for B2B letting, the new rules will also include a mandatory application of VAT for short term rent. This measure aims to reduce the complexity of ad hoc arrangements which are currently often put into place to set aside the general VAT exemption for immovable letting.

This mandatory application of VAT does not apply where the property is used as a dwelling or for social or cultural activities.

Upcoming webinar

Deloitte Academy will soon organise a webinar to highlight the details of the new regulations.
Contacts

If you have any questions concerning the items in this alert, please contact your usual tax consultant at our Deloitte office in Belgium or:

- Johan Van der Paal, jvanderpaal@deloitte.com, +32 2 600 66 39
- Ivan Massin, imassin@deloitte.com, +32 2 600 66 52
- Danny Stas (Laga), dstas@laga.com, +32 2 800 70 11

For general inquiries, please contact: bedeloittetax@deloitte.com, + 32 2 600 60 00

Be sure to visit us at our website: http://www.deloitte.com/be/tax | http://www.laga.be

Deloitte Academy

Tax Tools and Publications

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, tax and legal, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte has in the region of 225,000 professionals, all committed to becoming the standard of excellence.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

Laga BV CVBA in Belgium

Laga BV CVBA is part of a privileged multidisciplinary cost-sharing association with Deloitte Belastingconsulenten BV CVBA.

© 2018. For information, contact Deloitte Belgium.

Subscribe | Unsubscribe