



VAT alert Belgium

Belgium to introduce (optional) VAT on immovable letting

Immovable letting has always been exempt from VAT in Belgium since the introduction of the VAT system. Within the framework of budgetary discussions, the Belgian government has decided to abolish this VAT exemption and introduce a regime allowing the landlord to opt to apply VAT to the immovable letting.

Under current VAT regulation, immovable letting is exempt from VAT. A couple of exceptions to this rule exist (inter alia immovable finance lease, the letting of car parks, storage facilities and immovable equipment). However, the standard letting of an office building has always been VAT exempt. This VAT exemption blocks the recovery of upstream VAT incurred on construction and maintenance costs, and this VAT cost was reflected in the rental fee charged by the landlord.

Initially, the Belgian VAT Code provided for the possibility to apply VAT to immovable letting but this regime had to be implemented by Royal Decree. However, this Royal Decree was never executed meaning that the VAT exemption remained applicable. Eventually, the above mentioned possibility was dropped from the text of the law in 1994. Since then, the question on the introduction of an (optional) VAT regime, as it exists in other EU member states, came to light from time to time, only to be subsequently dropped again due to fears on the negative budgetary impact.

Practice has shown that the VAT exemption was set aside, from time to time. As such, the provision of properties to a

user was put into place through a complex structure, or was subject to specific and complex administrative regulations (such as for shopping malls, business centres etc.).

The government has now decided to implement a new optional regime in view of 'simplifying' the VAT treatment of agreements, whereby an immovable good is put at the disposal of a user. The aim is to remedy the 'competitive handicap' of Belgian real estate operators since they will be entitled to recover the upstream VAT incurred on the property's construction and maintenance costs.

The regime's implementation will require a number of hurdles to be overcome, such as the scope and conditions for applying the option, the impact on existing agreements and on the VAT recapture rules.

This development will be monitored closely and updates will be provided accordingly in the months to come.

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