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29 November 2013

FTT newsletter

A round-up of FTT developments across Europe

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It has been just over a year since our first Deloitte FTT Newsletter. This newsletter recaps the previous year of FTT by providing you with a summary of the key developments that have taken place over the life of the Deloitte FTT newsletters for both the proposed EU FTT and unilateral FTTs.

We also provide you with an update of important changes to the UK's Stamp Tax regime.

To discuss any aspect of FTT please contact your usual Deloitte contact or **Martin Walker** on **+44 20 7303 7644.**

Please feel free to forward this newsletter onto any of your colleagues. Please also see our **FTT website** where you can access past editions of this newsletter and find other FTT related material.

EU FTT

The key development over the last year has been the release of a revised proposed directive in February 2013, replacing the Commission's original proposal from September 2011.

The original proposal failed to gain the necessary support among Member States. Therefore a minority of 11 Member States announced that they would **proceed with the FTT under the enhanced cooperation procedure ("ECP")** and the proposal of **February 2013 was released**. The revised directive has a much broader scope than the original directive and introduced the issuer basis and the general anti avoidance rule.

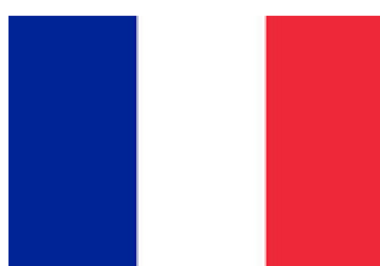
The proposed directive has been subject to criticism from **various industry groups** from across the globe as well as from non-participating EU Member States. Most notably the UK, on 18 April 2013, launched a **legal challenge** against the use of ECP to bring in the FTT. Furthermore, a document emanating from the European Council's legal service was leaked stating that the proposed introduction through the ECP process of certain extra-territorial aspects of **the FTT was illegal**. Domestic implementing legislation which was due from participating Member States was not drafted by the 30 September deadline.

These challenges to the FTT make it virtually certain that the FTT will not come into force on 1 January 2014 as was originally intended. We regard 2015 or 2016 to be a more realistic implementation date.

It is important to note that while there have been challenges to the FTT, the FTT project still has strong supporters and we still expect a FTT to come into force. Following the German general elections in September 2013, both members of the probable coalition Government have announced that that they are in favour of the **FTT moving forward**. On 26 November, a coalition agreement was reached between the two parties which confirmed their intention to introduce an FTT "in a European context" with a broad tax base. Once the coalition Government has been formally agreed, we expect that the FTT project will once again gather momentum in Europe.

It is also likely that we will see a revised directive from the European Commission, bringing in either **temporary** or permanent exemptions and also lessening the impact on non-participating Member States to address some of the concerns raised.

National FTTs



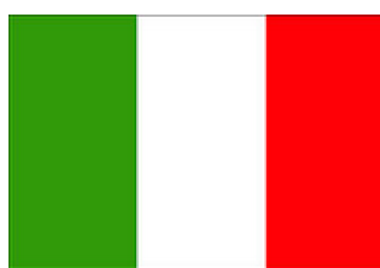
French FTT

The French FTT ("FFTT") was introduced with effect from 1 August 2012, predating our first newsletter. On 1 December 2012, the scope of the FFTT was extended to **apply to depositary receipts** over in-scope French securities.

Broadly the FFTT position is a settled one, with the financial markets and participants having adapted to its requirements. The FFTT does remain a new tax and therefore there may be some minor developments and clarifications over the next year. We do not however expect there to be any material or substantial developments until the EU FTT position is finalised.

More recently a **proposal was tabled** to extend the FFTT to apply to intra-day positions, as well as the net end of day positions the FFTT already applied to. This proposal was **rejected**.

Italian FTT



The Italian FTT ("IFTT") was introduced with effect from 1 March 2013 on purchases of certain Italian equities. From 1 September 2013, the IFTT also applied to certain equity derivatives (broadly over in-scope Italian equities).

Compliance with IFTT involves the responsible party, which can include brokers and fund/portfolio managers as well as certain end investors, registering with the Italian tax authorities for IFTT purposes and obtaining an Italian fiscal code in order to be able to pay IFTT and submit the required tax returns. **Payment and reporting regulations** have been released slowly along with a **FAQ on equities** and **FAQ on derivatives**. These documents have not always provided complete clarity and there remain numerous open questions. Furthermore, legislation which sets out the requirements for the annual IFTT return has yet to be released.

From 1 January 2014, the IFTT rate is due to drop to 0.2% for over the counter ("OTC") transactions and 0.1% for on exchange transactions (from 0.22% and 0.12% currently). Also, from 1 January 2014, some bonds with equity features will **also be subject to IFTT**.

Clearly therefore the IFTT remains an evolving tax. We expect further key developments and clarifications to arise in respect of the IFTT in the early part of 2014.

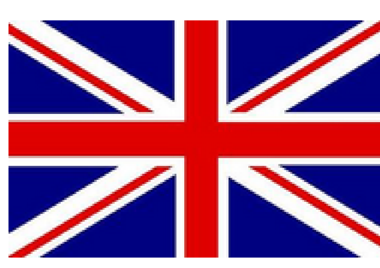
Hungarian FTT

As reported in out newsletter of 25 November 2013, the Hungarian FTT ("HFTT") is officially due to apply to securities with effect from 1 January 2014. However there has been a lack of any details as to how the HFTT would apply to securities from the Hungarian authorities. HFTT is therefore unlikely to come into force on 1 January 2014. We will let you know should this position change.

Ukrainian FTT

The life of the Ukrainian FTT ("UFTT") has proven to be a short one. Having come into force on 1 January 2013, the UFTT will no longer apply to equities from 1 January 2014 onwards. This measure was approved by the Ukrainian legislature on 24 October 2013. The removal of this charge will apply to all equity transactions, regardless of whether the transaction is effected on or off exchange and whether the purchaser is Ukrainian resident or otherwise. UFTT will however continue to apply to certain derivatives.

UK Stamp Duty Reserve Tax



Abolition of Schedule 19 Regime

The Chancellor announced in the UK Budget 2013 that the Stamp Duty Reserve Tax ("SDRT") regime found in Schedule 19 of the Finance Act 1999 ("Schedule 19"), in respect of UK unit trusts and UK open ended investment companies, will be removed.

This measure is very welcome after more than a decade of lobbying to abolish an anti-competitive charge that often proved complex and costly to administer. The abolition of Schedule 19 will affect UK asset managers, fund administrators and investors in UK unit trust schemes and OEICs, and it is anticipated that its removal will encourage funds to domicile in the UK and allow UK funds to attract more non-UK investors.

It is also timely, as it enhances the UK's competitiveness in Europe amongst the introduction and proposed introduction of European FTTs.

Schedule 19 is due to be removed by Finance Act 2014. It is expected that the draft legislation released after the Autumn Statement 2013 will contain a provision to abolish this regime.

Abolition of Stamp Duty and Stamp Duty Reserve Tax on Junior Market Shares

The UK Budget 2013 also announced the intended abolition of stamp duty and SDRT on share transactions in UK companies quoted on growth markets such as the Alternative Investment Market (the London Stock Exchange's international market for smaller companies) and the ISDX Growth Market (ICAP's SME market). This will affect investors in shares quoted on AIM and ISDX Growth Market, and is expected to make London more attractive for Small Caps and IPOs, particularly in view of the French, Italian and EU FTTs.

Introduction of Authorised Contractual Schemes ("ACS")

The ACS regulations came into force on 28 June 2013 under SI 2013/1401 and section 90(7B) Finance Act 1986, introducing two new forms of UK collective investment schemes, the co-ownership scheme and the limited partnership scheme. These new ACS vehicles are transparent for UK stamp duty and SDRT purposes (giving unit holders a beneficial interest in the underlying assets) and exemptions from such charges exist for transfers of UK securities into an ACS, transfers of UK securities between sub-funds of an ACS and transfers of ACS units themselves.

Schedule 19 has not been extended to cover ACSs (although it is intended to be abolished in any event, as discussed above).

The introduction of these vehicles, together with the above measures, adds to the UK's competitiveness in Europe and the financial markets.

Martin

Martin Walker
Director

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