



CONFEDERATION  
FISCALE  
EUROPEENNE

# CFE Fiscal Committee

## National Reports

March 2014

131<sup>st</sup> Meeting



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## CZECH REPUBLIC

### Tax news from January until February 2014

#### *Tax plans by the new Czech government*

- The coalition plans to introduce reduced VAT rate on pharmaceuticals, books, nappies and children's nutrition; increase the taxation on gambling and re-introduce the tax relief for working pensioners from 2015.
- The government is also planning to abolish the concept of the super-gross wage and the solidarity tax and introduce a second personal income tax bracket.
- The government coalition also plans to cancel the previously approved amendments to the Income Taxes Act, which originally introduced the so-called one collection point from 2015 and unified the submission of personal income tax returns and insurance premiums on health and social insurance. The abolition of this amendment will also cancel exemption of dividends and shares in profits from tax that was part of this change.

#### *Unrealized exchange rate differences belong in the tax base*

- An amendment to the Income Taxes Act, effective from January 2014, clarifies how to deal with unrealized exchange rate differences.
- The purpose of the modified definition of expenses and revenues in a new wording is to avoid confusion and to clarify that unrealized exchange rate differences kept in the records should be included in the tax base.
- Those who decided to follow the previous Supreme Court's decision and excluded unrealized exchange gain differences may do so even in the periods commencing in 2013. Nevertheless, they must not forget to follow the decision in the same manner for both unrealized foreign exchange rate gains and losses.

#### *Personal income tax in 2014*

- 2014 will not bring any truly fundamental changes to either employers or employees. This is due to the fact that the super-gross salary has not ended, the solidarity tax increase is continuing, the threshold on health insurance is still not fixed and tax and insurance rates are unchanged.
- For completeness, the maximum assessment basis for the payment of social security premiums is CZK 1,245,216 for 2014.

Prepared by: Martin Houska and Milan Tomíček

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## IRELAND

### Report on Irish tax developments in the period since January 2014

#### Department of Finance / Revenue Consultations

Since January 2014, consultations on the following issues were initiated by the Department of Finance:

- Review of “Agri-Tax” measures. This consultation seeks to review the tax reliefs and measures aimed at farmers. It sets out key policy objectives in this area and asks for comments on whether the tax rules as designed support these objectives. The Irish Tax Institute will make a response to this consultation, reflecting the views, concerns, and recommendations of members.
- FATCA Guidance Notes. This consultation seeks feedback on Revenue’s draft FATCA Guidance Notes. FATCA legislation has already been implemented in Ireland and will apply from 1 July 2014.

#### Action Plan for Jobs 2014 published

The Irish Government published the ‘Action Plan for Jobs 2014’ proposing a range of measures aimed at increasing employment. The Action Plan outlines that a number of key tax measures are to be reviewed by the Department of Finance and Revenue during 2014. The measures to be reviewed are:

- Enterprise Investment Incentive Scheme (EIS).
- Seed Capital Scheme.
- Start You Own Business Scheme.
- Special Assignee Relief Programme (SARP).
- Foreign Earnings Deduction (FED).

The Action Plan also confirms that a number of tax measures announced in Budget 2014 will be implemented during the year. These include measures aimed at tackling the Shadow Economy and increasing the VAT cash receipts threshold to €2 million. The Action Plan also expresses the Irish Government’s commitment to maintaining the 9% VAT rate for certain services introduced in 2011.

#### Revenue's Local Property Tax compliance campaign

Irish Revenue announced the launch of a nationwide compliance campaign in relation to Local Property Tax. Taxpayers are to be given a final opportunity to regularise their LPT affairs before the campaign commences. Property owners who regularise their affairs before 31 March will not be subject to interest, penalties and mandatory deduction from wages/pension.

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## ITALY

### ***Report Update on Recent Developments of Italian Tax Laws (January – March 2014)***

#### ***Voluntary Disclosure***

With Decree-Law No. 4 of 28 January 2014, Italian law introduced the so-called “*voluntary disclosure*”, consisting of a voluntary collaboration between taxpayers and Tax Authorities on reporting financial and patrimonial activities established or held abroad until 31 December 2013 in violation of the monitoring obligations in force.

This procedure of voluntary collaboration can be initiated until 30 September 2015.

The taxpayer shall indicate, by submitting a specific request, all investments and all financial activities established or held abroad, even indirectly or through an intermediary, and provide for the payment of the amounts due.

Regarding the taxable amounts corresponding to activities established or held abroad, for taxpayers who activate the “*voluntary cooperation*”, penalties related to inaccurate returns and failure to file are waived (Legislative Decree No. 74/2000, Arts. 4 and 5). Moreover, penalties in cases of fraudulent misrepresentation using invoices or other documents in relation to non-existent transactions (Legislative Decree No. 74/2000, Art. 2) or other tools (Legislative Decree No. 74/2000, Art. 3) are decreased up to 50%.

#### ***Removal of Republic of San Marino from Tax “Black List”***

With the Decree of 12 February 2014, the Ministry of the Economy and Finance ordered the exclusion of the Republic of San Marino from the list of blacklisted countries (which is included in Article 1 of the Decree of the Minister of Finance of 4 May 1999).

The entry into force, on 3 October 2013, of the “*Convention between the Government of the Italian Republic and the Government of the Republic of San Marino to avoid double taxation on income taxes and to prevent tax fraud*”, as well as the realization of several substantial adaptation of the regulatory framework in San Marino to the most advanced international standards on transparency and information exchange, have been crucial to achieving this result.

#### ***Transposition of Directive 2011/16/EU***

On 28 February 2014, the Italian Council of Ministers approved, upon final examination, sixteen legislative decrees transposing various European directives, including Directive 2011/16/EU relating to administrative cooperation on tax matters.

Directive 2011/16/EU repeals, effective on 1 January 2013, Directive 77/799 EEC, and it establishes new forms and procedures for administrative cooperation between Member States for the administration and implementation of national legislation in the tax field.

Its objective is strengthening cooperation and exchange of information between Member States in countering international tax evasion.

#### ***Web Tax***



The 2014 Stability Law (undergoing the final stages of approval) provided for the introduction of the so-called “*Web Tax*”.

In particular, this law established that the online ad space and sponsored links that appear on the results pages of search engines, visible by visiting a site or using an online service through either a landline or a mobile network, could only be purchased from entities (publishers, advertising space resellers, search engines, or other advertising operators) that are associated with an Italian VAT registry number.

The Council of Ministers, on 28 February 2014, repealed the above-mentioned provision introduced by the Stability Law.

### **Tax Reform**

On 27 February 2014, the Chamber of Deputies definitively approved the Delegated Bill on tax matters.

This law enables the Government to adopt legislative measures reviewing the current tax system in order to make it more effective, equitable, and transparent.

In particular, the Government is authorized:

- on tax avoidance and abuse of law: (Art. 5) “*to carry out a review of the current anti-avoidance provisions in order to make them consistent with the general principle of the prohibition of abuse of law*”, taking into account, *inter alia*, of “*principles*” and “*guiding criteria (...) included in the European Commission's Recommendation on Aggressive Tax Planning No. 772/2012/EU of 6 December 2012*”;
- on direct taxation matters: (Art. 11) “*to introduce (...) rules*” for “*reviewing taxation of business income and self-employment and of income subject to separate taxation*” and “*introducing lump-sum arrangements for smaller taxpayers*”;
- in the VAT and indirect tax area: (Art. 13) “*to introduce rules*” for both “*the implementation of the group regime for value added tax (VAT) purposes, provided for in article 11 of Directive 2006/112/EC*” and “*for the review (...) of other indirect taxes*” (e.g., “*registration, stamp duty, mortgage, and property fees*”).
- on environmental taxation: (Art. 15) “*to introduce (...) new forms of (...) energy and environmental taxes*”, “*in light of the policies and measures adopted by the European Union for sustainable development and the green economy*”.

### **Bill for Tax Regulation of Italy-Taiwan Relations**

On 31 January 2014, the Council of Ministers approved Bill No. 1144 “*Special Tax Regime Rules Regarding Relations with Taiwan's Territory*”, which governs tax-related issues concerning economic relations between Italian and Taiwanese residents.

The objective of the Bill is to avoid double taxation and ensure a more effective fight against tax evasion. Its provisions are in line with the international level provisions of the OECD Model Convention on Double Taxation.

### **March 2014**

**Raffaele Rizzardi – Piergiorgio Valente**  
**Paolo Centore – Marco Peirola**

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## MALTA

### Indirect Tax Updates (*Feb - Mar 2014*)

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#### 1. Value Added Tax

##### 1.1 L.N. 52 of 2014 - Value Added Tax (Rate of Interest) Regulations, 2014

The rate of punitive interest was reduced from 0.75% to *'a rate which the Minister shall...prescribe'<sup>1</sup>*. In cases when endangered tax does not exceed €2,000, administrative penalties will be capped to €250. In cases where the endangered tax exceeds €2,000, the administrative penalty cannot exceed 20% of the excess.

Magistrates will be empowered to charge daily penalties for non-compliance only in defined cases. Daily penalties will be reduced to €5 (presently, a €5 to 20 bracket applies). The Act incorporates a retrospective transitory provision. Article 6 provides that when before the date of coming into force of the Act a person has been sentenced with a daily penalty, every amount of the fine per day 'shall be calculated afresh according' to the new rates. In certain cases, daily fines will be cancelled. The cancellation of fines may not result in eligibility to refunds.

### Direct Tax Updates (*February – March 2014*)

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#### 1. L.N. 3 of 2014 Protocol amending DTT between Malta and South Africa

This Double Tax Treaty (DTT) entered into force on December 17, 2013. This Protocol reduces withholding tax on dividends distributed by a South African company to a Malta resident to 5% if the beneficial owner is qualified by a 10% shareholding requirement. A rate of 10% withholding tax would apply to all other cases.

#### 2. L.N. 56 of 2014 Exchange of Information (Tax Matters) (Cayman Islands)

Exchange of information agreement entered into with the Cayman Islands regarding cooperation between the two states on tax information matters and criminal tax matters. It provides for exchange of information upon request and allows tax examinations to be conducted in the territory of one contracting state by the authorities of the other contracting state.

There is no obligation to obtain or provide information that would not normally be available or which would disclose trade, business or professional secrets or which would reveal confidential information.

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<sup>1</sup> Currently standing at 0.54% per month.



The agreement also provides for a mutual agreement procedure. The agreement has not yet entered into force.

**3. L.N. 67 of 2014 – Amendments to DTT with India**

The new DTA entered into with India came into force on 7th February 2014, replacing the one from 1995. The new DTT includes more detailed provisions relating to the determination of the profits of a permanent establishment that a company resident in one State has in the other State.

Withholding tax on dividends distributed by a company resident in India, to a resident of Malta remains 10%, provided the recipient is the beneficial owner. The requirement to hold at least 25% of the shares in the company making the distribution has been removed.

Withholding tax on royalties has been reduced from 15% to 10%.

**4. L.N. 78 of 2014 – Exchange of information agreement with US (FATCA) – In force**

The Intergovernmental Agreement (IGA) signed between Malta and the United States to improve international tax compliance and to implement the US FATCA has entered into force as of 16th January 2014. The IGA is a Model I reciprocal agreement, which provides that financial institutions in each country will report specific information to their own governments, who will then automatically exchange the information annually, on a reciprocal basis.

The IGA applies to financial institutions resident in Malta and to any branches of non-resident financial institutions operating in Malta. They must disclose details of the US Reportable Accounts to the MFSA who will then forward the information to the US Treasury.

*Geraldine Schembri and Christian Vella*  
*Malta (MT)*

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## SPAIN

### **SPANISH REPORT JANUARY – MARCH 2014**

The reform of Law 22/2003 of 9 July on insolvency (“Insolvency Law”) by the RDL 4/2014 is aimed at improving the treatment and relief of non-sustainable financial debt in companies with a viable activity, while at the same time protecting the legitimate interests of creditors to maximise their recovery expectation. In particular, the RDL focuses on the removal of certain obstacles and rigidities identified in practice which affect the success of refinancing processes. To that effect, it seeks to improve various aspects of the pre-insolvency institutions to ensure the viability of companies and avoid their insolvency, which would almost surely result in their winding-up.

From a tax standpoint, the adaptation of the General Accounting Plan to the International Financial Reporting Standards hindered the debt capitalisation transactions when these were not totally carried out by the shareholders of the affected companies or not in proportion to their respective holding: the difference between the debt acquisition value and its fair value generated an accounting income (ingreso contable) which formed the taxable base (base imponible) of the Corporate Income Tax; the acquisition by shareholders of claims from third parties also generated accounting income -and positive income (rentas positivas) in the Corporate Income Tax- upon the capitalisation of the acquired claim for the difference between the value of the claim and its acquisition value.

The RDL corrects those effects, by calculating the effects on the taxable base of the Corporate Income Tax without taking into account the accounting treatment of claim set-off:

- (a) The company in which the claim is capitalised will determine its effects in the taxable base of the Corporate Income Tax according to the difference between the corporate value (valor mercantil) of the share capital increase -share capital plus premium- and the value of the credit for tax purposes.
- (b) The companies that subscribe the capital increase by means of a claim set-off will determine their effects in the taxable base of the Corporate Income Tax for the difference between the proportional part of the value of the capital increase and the tax value of the claim.

As regards the debt reductions and extensions carried out in the framework of the Insolvency Law, their recognition as income in the taxable base of the Corporate Income Tax is deferred: it will be made as the financing expenses arising from the refinancing or restructuring agreement are recognized from time to time; if the accounting income is greater than the financing expenses to be registered, they will be allocated proportionally.



Stamp duty to be paid by the debtor in the event of debt reductions and other agreements for refinancing or out-of court payment agreements approved in the context of the Insolvency Law is also removed.

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## UNITED KINGDOM

### Report on UK developments January to March 2014

#### Budget 2014

The UK Budget was on Wednesday 19 March and Finance Bill 2014 will be published on 27 March 2014. Draft clauses were published for comment on 10 December 2013 and, suitably amended, will appear in the Finance Bill proper on 27 March.

#### Direct tax

Headline rate of tax is 21% from April 2014 and 20% from April 2015.

Expenditure on capital plant and machinery can be fully written off up to £500,000 each year.

There will be new provisions blocking promoters and users of tax avoidance schemes and users will have to pay the tax that hoped to save to HMRC. They will get the money back if their scheme is eventually successful.

The existing pension regime is going to be fundamentally changed and pensioners will be free to draw out the money in their pension arrangement paying tax at their marginal rate on the withdrawal.

#### Indirect tax

- The compulsory VAT registration limit will increase to £81,000 from 1<sup>st</sup> April (the de registration limit goes up to £79,000)
- The reverse charge is extension for wholesale trading in gas and power supplies to prevent MTIC fraud.
- Prompt payment discounts where VAT is accounted for on the assumption that the client will pay the reduced amount is to come to an end from 1<sup>st</sup> May 2014 for broadcasting and telecom services, and 1<sup>st</sup> April 2015 for all other supplies. In future suppliers will account for VAT on the amount received.

#### Stamp Duty Land Tax (“SDLT”)

- SDLT is currently paid at the rate of 15% on residential property acquired by “non-natural persons” (eg. property bought in corporate vehicles) with a value of £2million or more. From 20<sup>th</sup> March 2014 this threshold is reduced to £500,000.
- An annual tax on “enveloped dwellings (“ATED”) is payable by non-natural persons holding residential property with a value over £2 million. In line with the above this threshold will gradually be reduced to £500,000 over a period of time starting 1<sup>st</sup> April 2015.



## **Indirect Tax – developments in the period January to March 2014**

### *January 2014*

- HMRC issued a consultation on implementing EU rules intended to simplify intrastat reporting. Contrary to the EU proposal, HMRC would prefer to retain current arrivals reporting information requirements. HMRC is of the opinion reporting under the EU proposals would increase the number of lines of dispatch data by a factor of five.
- HMRC issue a technical note and on withdrawing VAT concessions from April 2015. The concessions affected concern student accommodation and dining facilities, reduced rate of VAT for long stay accommodation, TOMS and 10% fixed rate margin for shore excursions by cruise operators, TOMS and the airline charter option.
- HMRC issue guidance on determining the location of a customer for the changes to telecoms and digital place of supply of service rules from 1 January 2015.
- HMRC issued Brief 05/14 confirming no change to UK operation of TOMS as a result of the CJEU decision relating to infraction proceedings against a number of EU member states.
- HMRC issued Brief 03/14 to clarify the term 'student' when considering the VAT treatment of certain student accommodation.
- Inconsistencies in HMRC's approach to implementing the UK legislation on vouchers revealed in a First-tier Tribunal decision concerning Associated Newspapers (Daily Mail).

### *February 2014*

- HMRC issues Brief 06/14 updating its view on the employer's ability to recover input VAT on pension fund management costs as a result of the CJEU decision in the case of PPG Holdings Bv [case C-26/12].
- HMRC issues Brief 08/14 announcing a change of policy regarding letting of land for sports facilities.
- First tier Tribunal agree with taxpayer (The Way Ahead Group) that booking fees can be regarded as a separate payment handling supply.
- First tier Tribunal determines pathology services are VAT exempt medical supplies rather than standard rated information supplies.

### *March 2014*

- HMRC Brief 08/14 sets out VAT treatment of Bitcoins when they will in certain cases be treated similarly to other currencies.
- Supreme Court considers Secret Hotels2 were operating as an agency in offering hotel rooms rather than a principal.

**ICAEW Tax Faculty / Chartered Institute of Taxation  
March 2014**

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