GMS Flash Alert

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Luxembourg – Capital Gains Tax Rule Change; Single Notification to Joint Taxpayers

In this GMS *Flash Alert* we report on a new law easing the taxation of capital gains arising on the sale of second homes or investment property. We also highlight the Luxembourg tax authority's decision to issue a joint notification in the case of joint taxation of spouses or registered partners (instead of two separate notifications to each partner or spouse).

WHY THIS MATTERS

The developments reported on in this newsletter could impact globally mobile employees subject to Luxembourg tax law. For those with second homes or investment property in Luxembourg, the changed capital gains taxation rules could impact their decision to sell or hold their real estate holdings that are subject to the new rules. Selling qualifying property under the new rules could mean a lighter burden of capital gains taxation.

The joint notification of spouses or partners who are jointly taxed may mean that greater attention must be paid by the taxpayers concerned to notifications being issued to them by the tax authorities, as going forward they will receive only one notification per couple, rather than two separate ones. This measure aims to simplify tax administration and ease the burden of administrative red tape.

New Law[1] (Bill 6983) Changes Capital Gains Taxation for Second Homes

As announced by the Luxembourg government earlier this year (see our previous GMS *Flash Alert* 2016-058 (6 May 2016) and Luxembourg "Tax Alert" 2016-11 (9 May 2016)), the reduction of the tax rate on gains realized from the disposal of certain real estate owned by private individuals is in force as of 1 July 2016.

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Under the previous tax rules, capital gains arising from the sale of real estate which serves as a secondary home or investment land / property (i.e., not the taxpayer's main residence) and held by the taxpayer for more than two years were taxed at one-half (1/2) of the taxpayer's global tax rate as "extraordinary income."

For a limited time **from 1 July 2016 to 31 December 2017** (inclusive), the taxation of such gains realized during this period will be reduced to one-quarter (1/4) of the taxpayer's global tax rate.

There will continue to be a tax-free allowance of EUR 50,000 (increased to EUR 100,000 for couples filing jointly), available over an 11-year period, to reduce the taxable gain (this may result in a loss). In addition, the allowance will be EUR 75,000 for properties owned through direct inheritance (this may not result in a loss).

KPMG NOTE

The Luxembourg government is anticipating that this measure will increase the amount of real estate property that is sold on the market so as to encourage the supply of land and homes in Luxembourg.

New Law[2] (Bill 6964) on Joint Notification Where Taxpayers Are Jointly Taxed

A new law has been enacted that allows the Luxembourg tax authorities to issue only one notification in case of joint taxation of spouses and registered partners, whereas previously two separate notifications were issued for each spouse/partner. Therefore, from a legal point of view, the joint notification to the recipients of a decision (e.g., issuance of a tax assessment), constitutes a notification in respect of both spouses or registered partners concerned. Individual notification of a joint decision may still be possible; however, it should be expressly requested by one of the spouses or registered partners filing jointly.

KPMG NOTE

The aim of this new measure is to reduce the administrative costs of the Luxembourg tax authorities, as well as to reduce the formalities in terms of liability notification, especially for the issuance of tax assessments. It is strongly recommended that taxpayers (especially those who are not living together due to legal separation, ongoing divorce process, etc.) check with the relevant tax office that they have the correct/full details regarding the domicile/address of the concerned individual(s) in their file.

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FOOTNOTES:

1 See 99ter - 131§1d LIR.

2 See §91, al.1 AO.

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Watch This New Video from KPMG's GMS Practice!

"Short-Term Assignments -- When Your Employees Are on Assignment, Then Repatriating: Key Considerations"

This new video from KPMG's GMS practice continues the look at short-term international assignments that began with our earlier video released in mid-May "The Value of Planning for Short-Term International Assignments." When assignees go on short-term international assignments (STAs), there is a great deal of preparation, coordination, monitoring, tracking, communication, and planning and the tax, immigration, and HR/global mobility considerations can be tricky. STAs have their own set of peculiarities that make them as challenging and potentially complicated as long-term international assignments. In this video, we highlight the tax implications of STAs as we complete the discussion of the "during/on assignment" and "post-assignment" phases of the international assignment lifecycle for STAs, with a focus on the assignment policy and talent engagement/retention aspects of these assignments.

"Short-Term Assignments – When Your Employees Are on Assignment, Then Repatriating: Key Considerations" – (app. 13 minutes).

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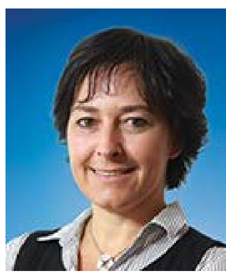

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