

TAX NEWS

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Dear Clients and Business Partners,

In the March issue of Tax News, we are going to focus in more detail on **tax from transfer of property**, which has been enacted on the basis of the Senate measure no. 340/2013 Coll., on real estate transfer tax. This new tax replaces the previous so-called real estate transfer tax. There are various features that both taxes have in common. As has been the case so far, the tax aims at transfers of property for cash. The tax rate has also been kept at the same rate of 4%.

With best regards,

LERIKA Team

TAX FROM TRANSFER OF PROPERTY

TAX PAYER

Although both taxes share many features, tax from transfer of property also introduces many new aspects. Differences can be found in determination of the taxpayer when acquiring an ownership interest through purchase or barter. Newly, contractual parties can agree who shall be the payer of tax from transfer of property. Unless contractual parties agree otherwise, the taxpayer shall be the seller as until the end of 2013. Newly though, the contractual parties can also designate the buyer to be the tax payer.

Tax from transfer of property introduces a change in the situation when property is acquired jointly by spouses. As spouses pay the tax jointly and severally, the tax return is newly filed only by one spouse. Until 31 December 2013, the tax returns were filed by both spouses respectively with tax divided into two equal installments.

CHANGES IN TAX EXEMPTIONS

Starting 2014, tax exemption no longer applies universally to all newly constructed property that has not been used so far. The exemption has been restricted only to specific types of property such as new apartments or land with residential houses. Also, tax exemption of in-kind contributions of property into share capital has been abolished.

TAX BASE DETERMINATION

Significant differences are also introduced in the manner of determining the tax base. Tax from transfer of property is levied from the so-called **acquisition value**. This can mean:

- contracted price,
- comparative tax value,
- determined price or
- special price.

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As far as the method of calculation is concerned, in most cases acquisition value will be one of the following:

- comparative tax value, or
- contracted price, whichever of the two is higher.

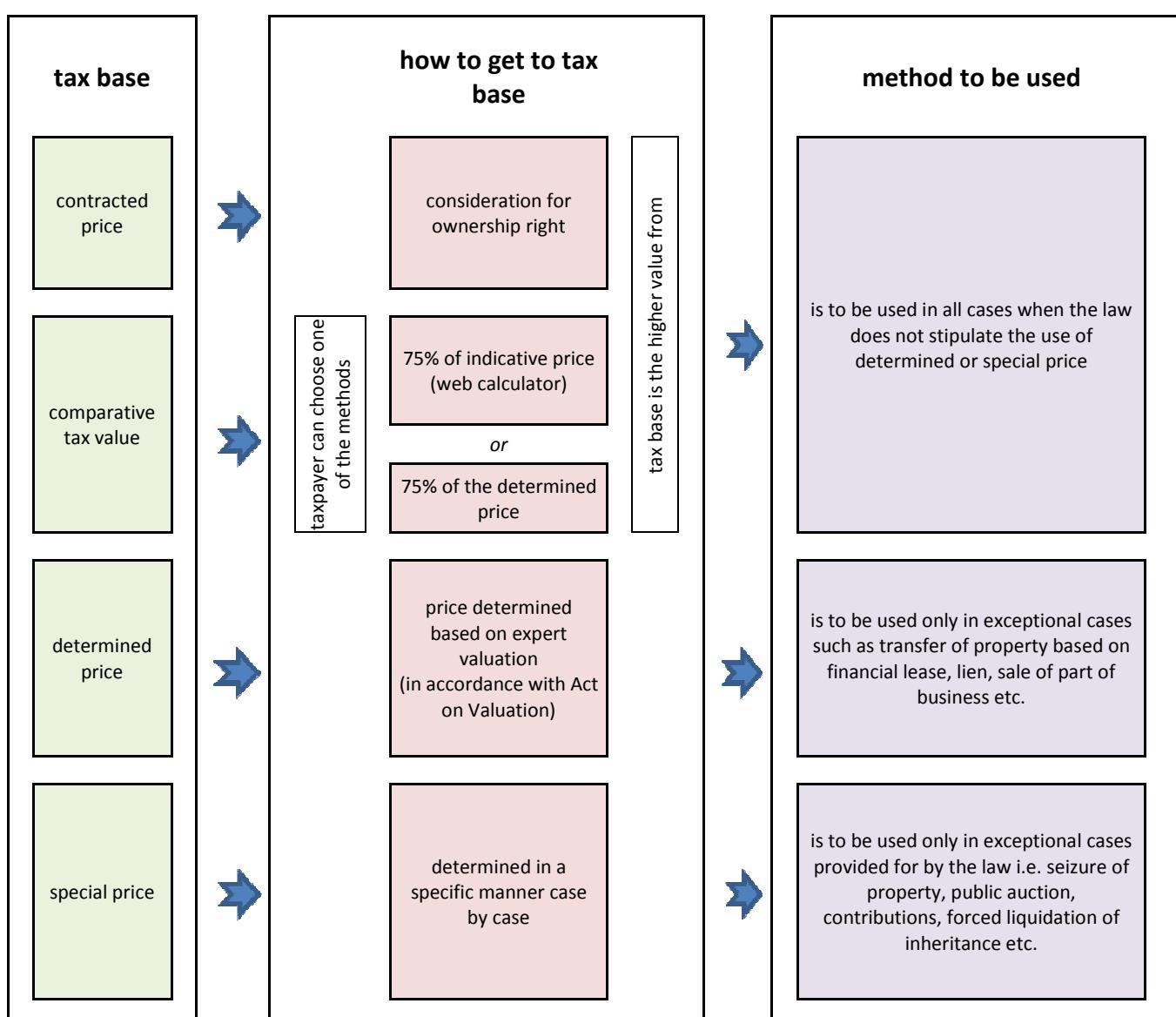
Comparative tax value can be obtained by multiplying the determined price or indicative price with 0.75 coefficient whereby the taxpayer can choose which one of the two alternatives is more beneficial.

Determined price is the price determined on the basis of Act on Valuation.

Indicative price is derived from prices of similar property considering the type, location, purpose, age, equipment and technical parameters of the specific property. However, factors such as probability of flood can also be taken into account. There are various types of property for which the indicative price will not be determined. This includes in particular forested areas, land with unfinished buildings but also land with buildings on it that are highly specific or complex.

In exceptional cases, the acquisition value shall take the form of the special price. A typical example is the price obtained through sale of property in auction, as a result of seizure of property or proceedings from forced liquidation of inheritance. The special price shall also be used as tax base for in-kind contributions of property into corporations. In such cases, the special price shall be determined on the basis of a valuation report on the in-kind contribution.

The various regimes are illustrated in the following chart:



TAX RETURN

If the taxpayer decides to use indicative price to determine the comparative tax value, tax base in a tax return is determined in a special way. In such case, the taxpayer provides all the necessary information to enable calculation of the indicative price without; however, calculating it. The taxpayer then declares a tax advance amounting to 4% of the contracted price (usually purchase price).

The Tax authority uses the information to calculate the indicative price and the final tax payable. In case that the contracted price is higher than the stated 75% of the indicative price, the tax amount shall equal the advance paid only. In contrast, if 75% of the indicative price exceeds the contracted price, additional tax payable arises to the taxpayer amounting to 4% of the difference. In most cases the indicative price will probably not exceed the contracted price though. Preliminary assessment of the indicative price shall not be difficult for the taxpayer to obtain due to the fact that the tax administration plans to roll out a special on-line calculator on its web page shortly. If the taxpayer uses indicative price to determine the tax base, it is not necessary to enclose to the tax return a valuation report, as was the case until the end of 2013.

If the taxpayer decides to determine the comparative tax value on the basis of the determined price, he or she is required to obtain a valuation report on the value of property and enclose it to the tax return. In such case the tax base can be reduced by the fee paid to the valuation expert for the valuation report. As regards tax base determination and tax payment, standard procedure applies as was the case for real estate transfer tax until 31 December 2013.

The goal of the new law is to bring simplification and lessen the administrative burden for the taxpayers and provide them with new options in case they would rather not prepare a valuation report.

TRANSITIONAL RULES FOR THE TURN OF 2013

By way of conclusion, several important practical aspects are worth mentioning. Although the tax from transfer of property is in many respects similar to the real estate transfer tax, it is necessary to use a new form for the new tax. The old real estate transfer tax form can no longer be used. Another important change is the new prefix of bank account to which the tax from transfer of property should be transferred. Starting 2014, instead of the 7763 prefix formerly used for real estate transfer tax, the new 7691 prefix shall be used for tax from transfer of property. If transfer of ownership right came into legal effect until 31 December 2013, the 7763 prefix shall still be used i.e. regardless of the fact when the tax is assessed and paid. Deadline for tax return filing remains the same. The tax return has to be filed by the end of the third month following the month in which the transfer of ownership right was registered in the real estate cadaster.

In case of any questions, please do not hesitate to contact us at any time.

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