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TAX REFORM, ANOTHER STEP

CHANGES TO URBAN PROPERTY TAX IN ANGOLA



PLMJ - Sociedade de Advogados

Rogério M. Fernandes Ferreira
rogerio.fernandesferreira@plmj.pt



PLMJ Angola Desk

Bruno Xavier de Pina
bruno.xavierpina@plmj.pt



GLA - Gabinete Legal Angola

Sílvia Espírito Santo
silvia.espiritosanto@gla-advogados.com

INTRODUCTION

Two new pieces of legislation have recently been passed in the context of the reform of the Angolan tax system and, in particular, the Executive Project for Tax Reform (EPTR). The first is Law 18/11 of 21 April which introduces changes to the Corporate Tax Code and to the Urban Property Tax Code. The main objective of this first law is to reduce the tax burden on owning property and earning income from it. The second is Presidential Decree 81/11 of 25 April which approves the new tables for valuation and re-valuation of urban buildings.

One of the foundations of the EPTR is the fact that tax revenues for the Angolan State come, in the main, from taxation on oil-related products. Consequently, one of the objectives of the reform is to diversify tax revenue and other objectives include the achievement of greater efficiency in taxation mechanisms and the introduction of measures that ensure more effective supervision by the tax authorities with a view to improving the collection of tax revenues.

THE CORPORATE TAX DEDUCTION

Rent from carrying out any activity subject to Urban Property Tax (UPT) is no longer considered as a profit or gain for the purposes of corporate tax and this avoids double taxation situations in respect of such income.

Consequently, with rent no longer being subject to corporate tax, the provision allowing any UPT paid to be deducted as an allowance for the purposes of corporate tax is repealed. This step was taken to eliminate the double taxation situation referred to above.

Finally, and on the list of taxes that may be deducted for corporate tax, provision is now made for the deduction to be made in respect of any type of tax on income other than UPT.

THE NEW BASIS OF ASSESSMENT

Although legislation had already provided for taxation both in respect of income from the rental of urban property and in situations of mere ownership of property, the basis of assessment for UPT has been broadened since, in cases of mere ownership of property, situations in

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Additionally in respect of the basis of assessment, the provisions for UPT to be applied in situations where the urban property has been sublet or the operation of a commercial or industrial establishment has been assigned is repealed.

which use of the property is restricted to carrying on an activity subject to corporate tax are no longer excluded from UPT, as was the case previously.

Alongside this broadening of the basis of assessment, the new law makes it clear that, in the case of property that is rented out, the taxable amount is still the value of the rent while, in cases where the property is not rented out, the taxable amount is now equivalent to the 'patrimonial value', which is the value attributed to the property by the tax authorities.

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As regards the question of who is liable to pay the tax, UPT continues to be payable by whoever has the right to receive the rental income from the property while, in cases of mere ownership, the tax is payable by the owner, beneficiary or holder of the surface rights to the property.

TAXABLE INCOME

The taxable income for urban properties that are rented out corresponds to the value of the rents that are actually received in any given year and expenses related to the property up to 40% of the said value can be deducted for tax purposes.

In turn, the taxable income for urban properties that are not rented out

corresponds to the 'patrimonial value', which is the value attributed to the property by the tax authorities in accordance with new rules for valuation or re-valuation of urban properties or the value for which the property has been sold, whichever is the higher.

NEW RATES

The rate of UPT for properties rented out has been reduced from 30% to 25%.

In cases of mere ownership, the property is exempt from taxation if its 'patrimonial value' does not exceed 5 000 000 AKZ (approx. 50 000 USD). In cases where the 'patrimonial value' exceeds that amount, ownership will be subject to a rate of 0.5%.

EXEMPTIONS

Compared to the previous situation, there has been a reduction in the number of companies that can benefit from UPT exemptions.

The following can now benefit from the exemption from UPT: the state, public institutions and associations that are recognised as being of public utility (it should be noted that the exemption applicable to the state and to any of its services was already ensured under the provisions of the General Tax Code); foreign states in respect of properties used for diplomatic representation and legally recognised religious institutions for properties used exclusively as places of worship.

Individuals or companies providing properties to humanitarian organisations for no consideration, no longer benefit from exemption from the tax.

SETTLEMENT AND PAYMENT

The legislation also includes new rules on settlement and payment of tax, on the terms under which taxpayers use or should use 'organised accounting' (non-simplified accounting for tax purposes), on whose responsibility it is to pay or hand over rent on property and on who must withhold the amount resulting from the applicable rate at source.

In these cases, the responsibility to settle and pay the tax falls to the tenant. In the event of non-payment, the tenant is

responsible for the all of the tax and the respective additional payments, without prejudice to the right of recourse against the person who owes the tax, but only in respect of the principle debt. Any amounts withheld must be passed on to the tax office for the area where the property is located by the 30th of the month following the one in which the tax was withheld.

When no there is no withholding tax, the taxpayer must pay the UPT in two equal instalments in the months of January and July. However, the tax may also be paid in four instalments when the taxpayer has made a declaration to this effect and, in this case, the instalments fall due in January, April, July and October.

THE VALUATION

The rules on the 'patrimonial value' of urban property, which is established through a valuation, are laid down in Presidential Decree 81/11 of 25 April, which approves the respective tables. This piece of legislation governs the valuation of new urban properties and the re-valuation of existing urban properties.

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CONCLUSION

The application of this Law immediately creates a challenge for the Angolan tax authorities, specifically in respect of the reception given to the withholding tax by the parties to rent agreements and the receptiveness of the holders of rights in rem over urban real estate

now covered by the broadening of the base of assessment for UPT to mere ownership of the property, based on the 'patrimonial value'. The inherent complexity of the process for property valuation itself will also have to be borne in mind, as will the complex questions related to the real estate register that exist in Angola.

Rogério M. Fernandes Ferreira
Bruno Xavier de Pina
Marta Machado de Almeida
João Bravo da Costa
Sílvia Espírito Santo

This newsletter was prepared by a multidisciplinary team made up of Angolan lawyers from GLA – Gabinete Legal Angola and Portuguese lawyers from PLMJ. This team was brought together under an agreement for international cooperation and membership of PLMJ International Legal Network, in strict compliance with applicable rules of professional ethics.
