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By PwC Deutschland | 31. Oktober 2019

UPDATE: Land Tax Reform published in Federal Gazette on 2 December 2019

The coalition factions' bill on the reform of the land taxes and valuation laws (Land Tax Reform Act), which was passed by the Bundestag on 18 October 2019 and approved by the Bundesrat on 8 November 2019 was published in the Federal Gazette on 2 December 2019 as the Act on the Reform of the Land Taxes and Valuation Laws

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Land Tax Reform at the Eleventh Hour

Following the judgment of the Federal Constitutional Court on 10 April 2018 (BVerfG, 10.April 2018 - BvL 11/14), the Federal Government and the Federal States have been looking for a way to reform land taxes to conform with the decision of the Court. It was a requirement of the Court that the rules be in place by 31 December 2019. Failure to do so could have led to a "land tax-free period" and the loss of an income source that is so important for the municipalities. After months of negotiations and the consideration of various reform models the Bundestag agreed the bill on 18 October 2019- just in time.

The Bundesrat's approval, which is still required,was given at their meeting on 8 November 2019.

Complex valuation procedure with escape clause

As was the case previously, land tax will be calculated in a three-step valuation procedure, which is aimed at determining the "actual" value of real estate for the purposes of land tax.

In a first step, the values for land and buildings (land tax values) will be calculated on the basis of largely legally standardized valuation parameters. The aim is to achieve approximately the same taxation of comparable properties.

The new valuation method finally selected was the value-based model proposed by the Federal Ministry of Finance.

For undeveloped land, the value for land tax purposes results from the area of land multiplied by the standard land value.

In the case of residential properties, the calculation to be applied is a simplified capitalised earnings value method based on flat-rate net cold rents, regardless of whether the real estate is actually rented out or used by the owners themselves. In addition to this amount, the value of the (fictitious) undeveloped plot of land will be added, after a discount calculated through applying a factor dependent on the remaining useful life of the building.

A clear distinction is made between residential properties and non-residential properties. For the latter, the valuation is carried out in the form of a simplified asset valuation procedure. For the valuation of the buildings, the usual cost for the construction of the respective building type will be applied. The value for the land based on the value of the undeveloped property will then be added to the value of the building.

In contrast to this, the future valuation of land and buildings for land and forestry businesses will be valued through a simplified capitalised earnings valuation methodology, based on the profitability of the business. In this regard the calculation will be based the net earnings, which can be commonly and sustainably achieved through orderly management.

The land tax is then determined as before through the calculation of the tax base by multiplying the determined land value by the basic federal rate and applying the rate of assessment specific to the

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municipality where the real estate is located.

Determined land value x basic federal rate x assessment rate = land tax.

The land tax reform should not have any impact on land tax receipts. In order to achieve this desired revenue neutrality, the new basic federal rate has been reduced to roughly one tenth of the current rate. This rate is generally 0.34‰. In addition to the 25% reduction in the basic federal rate for housing schemes, the draft law now also includes a reduction of 10% for developed plots of land, which are listed as historical monuments. For agriculture and forestry, the basic rate is 0.55‰.

In addition, an escape clause will give the Federal States the option to introduce a different valuation model to replace the federal model which has been criticised for being too complex and complicated.

The accompanying discussion on the additional calculation of land tax for the purposes of federal state fiscal equalisation according to the federal model and the concern that it may be necessary for the landowner to file two tax returns, has also been redressed in that the draft law now explicitly excludes this. As a result, the procedure for the standardisation of the land tax receipts may not give rise to a separate filing obligation for the taxpayer.

Introduction of “Land Tax C”

Also adopted in the bill was the introduction of a new “Land Tax C” for undeveloped building plots, which are ready for development.

This provides the municipalities with the right to charge their own rate of assessment on undeveloped building plots of land in the future. The aim is to create an incentive for development but to prevent land value speculation.

In contrast to the government's original draft, the municipalities can not only assess Land Tax C on building land and cases involving special housing needs but also, where there other urban planning reasons.

Considerable expense for taxpayers and tax authorities

As of 1 January 2022, approximately 36 million plots of land in Germany will have to be newly evaluated. The property owners are obliged to submit tax returns to the responsible tax offices. For this purpose, information on the real estate is required, the collection of which will be particularly onerous for taxpayers with extensive real estate holdings. In particular, in the case of production sites and commercial properties, which are often subject to constant structural changes, the required information and documentation may no longer be available, or may be incomplete and so that its procurement or reconstruction will give rise to considerable expense.

In order to contain the outlay, digital solutions which support data collection, processing and evaluation, (such as PwC’s Property Tax App which will soon be available, see below), can supply support.

After its first valuation on 1 January 2022, the real estate is to be revalued every seven years. Accordingly, 1

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January 2029 will be the next valuation date.

In addition, there are new notification obligations for taxpayers. In future, the landowner will have to file a simplified declaration (notice) by the beginning of the following calendar year, where there has been a change in the actual circumstances which would affect the value or the type of property. In the event of non-compliance or failure to comply with the obligation to declare and notify in a timely manner, a late filing penalty may be charged.

For the tax authorities, too, the determination of the new land tax will be a considerable hurdle which needs to be overcome.

Conclusion

With the adoption of the bill, the Federal Government and the Federal States have been able to prevent the cancellation of land tax in good time, thereby meeting the needs of the municipalities. The Federal States are now, however, faced with the agony of choice of how to determine the most appropriate evaluation procedure for themselves.

Indeed, the Federal States' escape clause does open the way to the Federal States to opt for a simplified and administratively straightforward evaluation procedure. However, whether and above all how the Federal States avail themselves of the option, is still completely open. This is especially the case, since the escape clause may in the end lead to 16 different evaluation procedures for the 16 different States.

Whether the land tax as a whole will be revenue-neutral and whether the evaluation models differing from the federal model will really be more favourable to the taxpayer is also uncertain. In any event, there will be shifts in valuations due to the different locations of the real estate, and the price increases in recent decades. To what extent the municipalities will set off the potential increases in land tax with a reduction of the assessment rates in order to achieve revenue neutrality remains to be seen.

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Even if the actual calculation will not present a mathematical challenge:

The escape clause included in the bill means that in future the calculations may be different from Federal State to Federal State. Furthermore, a wide range of

In addition, the landowner has obligation to declare or notify any "relevant changes". The result: 3 assessment notices on each property for each valuation unit.

How can you practically meet the requirements of the land tax reform with your existing personnel resources on an ongoing basis? We have the solution for you:

The PwC Property Tax App. Simple - Transparent - Efficient

How can the app help you?

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Our solution starts with the management of the data and represents a simple but secure migration from existing systems, which supports the digitization of the data. Publicly accessible information such as standard land values as well as values defined by law are automatically, i.e. without any manual effort on your part, collected and made available for your calculations.

With a central and efficient data management you can receive answers to your tax questions in connection with your real estate portfolio.

That's not enough for you? No problem! A quick overview of current tasks and deadlines, the calculation and estimate of the future tax burdens, as well as the detection of any anomalies - all this is included in our digital solution. In real time.

The app also supports the submission of the declarations themselves through the automatic completion of future forms and the secure transmission of the data to the responsible tax authority by the simple press of a button.

And what about the cumbersome assessment notices? With the app you have all deadlines at a glance and an efficient monitoring is ensured.

Interested? Then contact us - we will be happy to provide you with our solutions in a personal meeting!

Our PwC Property Tax App. Simply more than a normal app.

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Berlin:

Michael A. Müller

Tel.: +49 30 2636-5572

mueller.michael@pwc.com

Cornelia Waschkies

Tel.: +49 30 2636-5353

cornelia.waschkies@pwc.com

Katja Günther

Tel.: +49 30 2636-5633

katja.guenther@pwc.com

Ronald Lehmann

Tel: +49 30 2636-4450

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ronald.lehmann@pwc.com

Frankfurt:

Barbara Weber

Tel.: +49 69 9585-5047

barbara.weber@pwc.com

Carolin Babel

Tel.: +49 69 9585-6938

carolin.babel@pwc.com

Ferdinand Klempa

Tel.: +49 69 9585-5977

ferdinand.klempa@pwc.com

Schlagwörter

Real Estate, land tax, land valuation, reform bill