



Real Estate Tax Newsletter

March 2026

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INTRODUCTION

As the European real estate industry prepares to gather for the 2026 edition of **MIPIM in Cannes this March**, we are pleased to share our latest **Taxand Real Estate Tax Newsletter**, highlighting recent tax developments across Europe and beyond - and their implications for the sector.

This edition brings together insights from **12 jurisdictions** across Taxand, providing a concise overview of recent legislative changes and emerging trends shaping real estate investment, structuring, and transactions. As tax legislation and guidance continue to evolve, staying informed across multiple markets remains essential for the real estate industry.

If you have any questions regarding the topics covered, please reach out to the relevant local Taxand experts featured in the newsletter. We would be pleased to discuss how these developments may affect your business.

Enjoy reading!

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Applicability of Finnish Non-resident Capital Gains Tax to Partially Listed Real Estate Funds

In SAC: 2026:1, the Supreme Administrative Court ruled on Finland's non-resident capital gains tax provision introduced in 2023. The provision treats gains from transferring shares in entities with over 50% of assets consisting, directly or indirectly, of Finnish real estate as Finnish-source income, unless the entity is publicly listed.

The Court confirmed that an entity qualifies as publicly traded if at least one of its share or unit series is listed. Consequently, gains from transferring unlisted shares in a fund investing in Finnish real estate is not Finnish-source income if any series of the fund is publicly traded at the time of transfer.

This landmark ruling clarifies both the non-resident capital gains tax provision's scope and the broader tax definition of publicly listed entities.

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After a series of unprecedented legislative twists and turns, the French Finance Act 2026 has been adopted by the parliament on February 2nd. It should be published and thus applicable by the end of the month, subject to possible constitutional censure. Hereafter, the main provisions regarding the real estate sector:

- **Exclusion of real estate from the provisions of 150-0 B ter of the CGI :** all real estate activities are no longer eligible for tax deferral under the contribution-sale regime to a controlled entity. Uncertainty remains regarding the applicability of the regime and the associated tax benefits in the event of reinvestment in the real estate sector through investment funds (FPCI / SLP). Reinvestment in hotel management activities appears to remain permissible. The reinvestment rate of the disposal proceeds has been increased from 60% to 70%, and the period allowed to reinvest 70% of the disposal proceeds has been extended from two years to three years. All amendments to Article 150-0 B ter apply to disposals of contributed securities carried out from the day following the publication of the Finance Act
- **Creation of a tax on the non-operating assets of patrimonial holding companies :** the scope of application extends to companies with their registered office in France that are subject to corporate income tax, as well as to foreign companies subject to an equivalent tax or having at least one natural person domiciled in France (but only where the choice of registered office is intended to circumvent French taxation).

The tax applies only if the following cumulative conditions are met:

- o the fair market value of the company's total assets is equal to or exceeds EUR 5 million;
- o at least one natural person holds 50% or more of the voting rights or financial rights, or exercises decision-making power;
- o more than 50% of the company's aggregate operating and financial income consists of passive income.

The tax is levied at a rate of 20%, calculated on the fair market value of 'non-business' assets held at the end of the financial year. It applies to luxury assets, including vehicles, aircraft, yachts, wines, jewellery, and works of art.

- **Creation of a tax depreciation regime for real estate assets :** owners (individuals or pass-through entities not subject to corporate income tax) who commit to renting out their apartments (excluding individual houses) for nine years, at a rent meeting certain criteria, may deduct a percentage of the apartment's value (estimated at 80%). The deduction rate depends on whether the apartment is new (3.5%, potentially increased to 4.5% or 5.5% if the rent meets certain conditions) or has been renovated to be considered new under tax law (3%, potentially increased to 3.5% or 4% if the rent meets certain conditions). The deduction is capped at €8,000 per year and per tax household, which may be increased to €10,000 or €12,000 if the rent meets certain conditions. Deducted depreciation must be added back when calculating the capital gain upon resale.

One important measure initially discussed at the end of 2025 has not been included in this finance act eventually: **extension of the scope of the real estate wealth tax** to include financial investments, digital assets, and movable property.

Hungarian Condominium Building Right Enhances Security in Developments

Hungary has introduced a new legal framework establishing the condominium building right (társasházi építményi jog) as a novel real-property security instrument. Adopted in November 2025, the reform allows purchasers of yet to be built condominium units to register a condominium building right in the land registry, granting them a legally protected position throughout the construction phase. This right operates similarly to a mortgage like security, safe-guarding amounts already paid in the event of the developer's insolvency. The right is registrable, transferable, and pledgeable, and automatically converts into full ownership once the condominium is completed and registered. Its establishment requires that the future condominium be preliminarily recorded in the land register, and that the right be linked to the sale and purchase agreement for the specific future unit. **This new institution responds to market challenges experienced in recent years, where stalled developments and insolvencies created significant risks for buyers, banks, and developers.**

Tax relief on the sale and purchase of real estate

When purchasing a new residential property, individuals can offset the value of previously sold real estate against the tax liability. As a result of changes in legislation, it is not the value of the last property sold that can be deducted from the value of the new property, but the value of the most valuable property if more were sold before. The deduction period has been extended from 3 years to 5 years for past transactions, for future sales it remains 1 year.

GST is not leviable on assignment of leasehold rights of a plot

Sale of land is not amenable to GST. Whether assignment of leasehold rights in a plot of land qualifies as a sale of land or not is subject to varied interpretations and consequently prone to disputes. Recently, High Courts, namely Gujarat High Court and Bombay High Court have held that transaction of assignment is nothing but absolute transfer of right and interest arising out of the land which would amount to transfer/sale of immovable property. It was effectively held that it was transfer of benefits arising out of "immovable property" by the lessee-assignor in favour of third party-assignee who would become lessee .

Taxpayers who have borne the tax on this account can now explore claiming a GST refund of tax suffered by them on such transactions.

LUXEMBOURG (1/5)

Luxembourg releases circular on the CIV carve-out from the Reverse Hybrid Mismatch Rule

On 22 August 2025, the Luxembourg tax authorities issued Circular L.I.R. n°168quater/2, providing guidance on the scope of the carve-out from the reverse hybrid mismatch rule for collective investment vehicles ("CIVs") under Article 168quater(2) of the Luxembourg Income Tax Law. Introduced as part of ATAD2, this rule may treat a Luxembourg entity considered tax-transparent domestically but regarded as opaque in an investor's jurisdiction as subject to Luxembourg income tax in certain circumstances. CIVs fall within an exemption from this treatment.

The Circular confirms that undertakings for collective investment ("UCIs"), specialised investment funds ("SIFs"), and reserved alternative investment funds ("RAIFs") are deemed CIVs.

For other investment vehicles, three cumulative conditions must be met:

- broad investor participation, assessed by marketing to multiple unrelated investors and presumed satisfied where no investor holds more than 25% of capital or voting rights;
- maintenance of a diversified securities portfolio, broadly defined and subject to risk-spreading requirements; and
- subjection to investor-protection regulation, presumed for CSSF-supervised funds or those managed under Directive 2011/61/EU.

This Circular is relevant because it clarifies which investment vehicles qualify for the CIV carve-out, providing essential certainty for funds seeking to avoid unintended taxation under Luxembourg's reverse hybrid mismatch rules.

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Luxembourg Administrative Court rules on qualification of an IFL

On 17 April 2025, the Luxembourg Administrative Court upheld the reclassification of two intragroup interest-free loans (“IFLs”) granted to a Luxembourg company (“LuxCo”) as hidden capital contributions (“HCC”) for tax purposes and confirmed the denial of a permanent establishment in Malaysia.

The Court reaffirmed that tax qualification depends on economic reality rather than legal form. In the case at hand, despite certain debt-like features, the absence of interest, the use of funds for long-term participations, a disproportionate debt-to-equity ratio, and lack of guarantees indicated equity characteristics. Arguments based on non-binding market practice (85/15 ratio) and transfer pricing documentation were dismissed.

The Court concluded that financing terms were explained solely by shareholding links and thus, the IFLs were correctly reclassified as HCC.

Implications & Recommendations:

- OECD Guidelines (Chapter X, 2020) relevant for financial transactions.
- Debt-to-equity ratio should be supported by a debt capacity analysis in transfer pricing.
- Companies with high debt ratios or high-risk investments should prepare debt-capacity reports to mitigate tax risks.

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LUXEMBOURG (3/5)

Luxembourg Confirms and Enhances Its Carried Interest Tax Framework

On 24 July 2025, a draft law modernising the carried interest regime for managers of alternative investment funds (“AIF”) was submitted to Parliament. The draft law:

- confirms that carried interest constitutes miscellaneous income (speculative gains);
- expands eligibility to all individuals contributing to AIF management, including partners, independent board members, and certain advisors, while excluding purely administrative roles;
- clarifies the conditions under which such gains are taxable or exempt:
 - Contractual Carried Interest: Not linked to fund participation - granted without investment.
 - The quarter-rate tax (1/4 of the progressive income tax rate) is proposed to become permanent and available to all, not just impatriates.
 - ‘Invested’ Carried Interest: Linked to actual fund ‘ordinary’ investment or carry shares.
 - Taxable if the investment is realised within a 6-month deadline.
 - Exempt if investment is held more than 6 months, unless the provisions of Article 100 come into effect.

The draft law also removes the capital return condition, accommodates deal-by-deal structures, and disregards tax transparency solely for this regime and safeguard the integrity of the tax system through substance requirements and anti-abuse provisions.

This draft law clarifies Luxembourg’s carried-interest tax treatment, offering greater certainty, broader eligibility, and a more competitive framework for AIF managers.

On 19 December 2025, the Council of State approved the draft law which is now on track for being passed by the Parliament on 22 January 2026.

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LUXEMBOURG (4/5)

New 2026 Luxembourg Start-Up Tax Credit

On 17 December 2025, the Luxembourg Parliament enacted a law introducing, as of the 2026 tax year, a new start-up tax credit for individual investors subject to Luxembourg personal income tax who invest in young, innovative companies.

The credit applies to investments in new fully paid-up shares or securities representing the start-up's share capital, with a minimum investment of EUR 10,000 and a mandatory three-year holding period. Only the first EUR 1,500,000 invested by eligible investors in the start-up qualifies.

To benefit, the start-up must be a Luxembourg resident entity (or EEA PE), incorporated for less than five years, with fewer than 50 employees and assets or turnover below EUR 10 million.

It must also carry out an innovative activity, demonstrated through staffing and R&D expenditure requirements, and must not operate in excluded sectors such as legal, audit, accounting, or real estate development.

The tax credit equals 20% of the eligible investment, capped at EUR 100,000 per investor per year. Eligibility is reduced if the investor holds more than 30% of the start-up's capital. Unused credits may be carried forward.

This is relevant because it incentivises private investment into early-stage innovative Luxembourg companies.

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New Luxembourg Rules on GloBE Information Returns and Automatic Information Exchange

On 17 December 2025, the Luxembourg Parliament approved legislation governing the exchange of information for the “top-up tax information return”, also called “GloBE Information Return” (“GIR”), thereby transposing Directive (EU) 2025/872 (“DAC9”).

This law updates the existing framework introduced on 22 December 2023 for the implementation of the EU Pillar Two Directive, which ensures a minimum level of taxation for large multinational and domestic groups. Its purpose is to streamline compliance with Pillar Two filing requirements and align Luxembourg rules with the latest OECD Administrative Guidance.

The new Luxembourg legislation clarifies the required content, reporting process, and the standardized GIR template. The first Luxembourg GIR must be filed by 30 June 2026. Until mid-2030, Luxembourg entities may also opt to submit the GIR using a simplified jurisdictional reporting method.

The new law also establishes the mechanism for automatic information exchange which follows a dissemination approach based on jurisdictions’ taxing rights (IIR, UTPR, QDMTT). The first exchanges, relating to tax years starting on or after 31 December 2023, will occur on 31 December 2026.

The GIR remains separate from Luxembourg top-up tax filings.

This is relevant because the new rules directly impact reporting obligations, data preparation, and compliance timelines for groups operating in Luxembourg under the Pillar Two framework.

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New RETT tax rate for residential properties

Per 2026, a new RETT tax rate has been introduced for residential properties. The new 8% rate applies to all residential properties that are not intended to be used by the buyer as their own permanent residence. Previously, such acquisitions were subject to the 10.4% RETT rate.

VAT Deduction for Investment Services

Per 2026, a new VAT adjustment mechanism applies to “investment services” performed on immovable property. Investment services are substantial renovation or maintenance services with a value of at least €30,000, such as painting, insulation work or roof renovation. The initial VAT deduction on such services is no longer final in the year of first use (i.e. when the work is completed and the renovated part of the property is actually taken into operation). Instead, it is monitored for an additional four years. Each year, the ratio between taxable and exempt use must be reassessed, and if this ratio changes by more than 10%, part of the initially deducted VAT must be adjusted.

VAT Increase for the Hospitality and Short-Stay Sector

Per 2026, the VAT rate for accommodation services, such as hotel stays, short-stay rentals and holiday accommodations, has been increased from 9% to 21%. This change significantly raises the tax burden on operators in the hospitality and leisure sector and directly affects the profitability of investment properties within this segment.

Classification rules foreign entity – amendment Fund Priority Rule

Per 2025, the Dutch limited partnership and similar foreign entities in principle classify as tax transparent by default. An important exception applies to Dutch and foreign fund entities. Based on the Fund Priority Rule, these may still qualify as a non-transparent entity if i) it classifies as an AIF or UCITs under the Dutch Financial Supervision Act and (ii) is engaged in passive investments.

Following significant criticism, the Dutch government is considering amending the Fund Priority Rule as of 2027 or 2028. Transitional rules apply in the interim period allowing Fund entities to opt out of the application of the Fund Priority Rule, provided that this election is supported by the consent of the participants (no prescribed format).

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Mandatory e-Invoicing – Key Deadlines in 2026

From 1 February 2026, large taxpayers must issue and receive invoices exclusively through the National e-Invoicing System (KSeF). From 1 April 2026, the obligation will apply to almost all other VAT-registered businesses. This change will significantly impact invoicing processes and IT systems, so early preparation is essential to avoid compliance risks.

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Digitalised Corporate Tax Reporting

Starting 2026, large corporate taxpayers are required to submit structured electronic tax and accounting data (JPK-CIT) alongside their annual CIT returns. Smaller entities will be included in later phases. The new reporting format increases transparency and enables automated checks by tax authorities, making data accuracy and internal controls more important than ever.

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Depreciation Rules for Investment Property – Still Under Consultation

The Ministry of Finance is consulting on changes that would in practice eliminate tax depreciation for investment properties measured at fair value under accounting standards. Currently, based on favourable interpretation line of tax courts, some taxpayers can deduct depreciation for tax purposes even if the property is not depreciated in accounting books. Under the proposed rules, this option would be removed, aligning tax treatment with accounting treatment and significantly reducing deductible costs for real estate companies. If implemented, the changes can significantly affect income tax calculations and cash flow results. Taxpayers should closely monitor developments in this regard.

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Title: WHT Guidance Published in 2025

In 2025, the Ministry of Finance issued clarifications on withholding tax exemptions, focusing on the “beneficial owner” and business substance requirement and conditions for applying EU Directive and treaty-based reliefs. It also clarifies conditions under which holding and financing entities qualify for reduced rates or exemptions. While the guidance provides helpful direction, it does not resolve all interpretative doubts, particularly around substance requirements. Businesses should continue to assess WHT positions carefully and monitor further developments.

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Retroactive Depreciation Adjustments – new developments in practice and legislation

Polish administrative courts currently accept that taxpayers may retroactively adjust depreciation write-offs for tax purposes (increase or decrease these as they wish). This approach has been favorable for real estate companies seeking to optimize tax positions. However, the Ministry of Finance is now consulting on a draft amendment that would prohibit retroactive corrections. If enacted, this change will significantly limit flexibility in managing historical tax costs. Businesses should monitor the legislative process and consider the impact on their depreciation strategy.

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Tax incentives package on the sale and lease of residential properties

The Portuguese Government has put forward a package of measures aimed at mitigating the impact of the significant increase in housing prices verified in the last years in Portugal, which is still pending approval by the Parliament.

We highlight below the most relevant tax changes included in this proposal to become effective on 1 January 2026.

• Preliminary remarks

Tax incentives provided for under this package are subject to the following maximum limits/thresholds (which may be updated) as defined by reference to, respectively, the Real Estate Transfer Tax ("RETT") Code and the guaranteed minimum monthly remuneration

a) Moderate sale price – currently EUR 660,982.

b) Moderate monthly rent – currently EUR 2,300.

• Application of the reduced VAT rate

This proposal foresees the application of the reduced VAT rate (currently 6% in mainland Portugal and 4% in the Autonomous Regions) to works contracts for the construction or rehabilitation of residential properties until 31 December 2032 (but limited to urbanist operations initiated from 23 September 2025 to 31 December 2029), where such properties are intended for:

a) Sale for the purchaser's own permanent residence; or

b) Residential leasing.

The application of the reduced VAT rate will be conditional upon the sale price.

It will be further dependent on the cumulative fulfilment of the following conditions:

a) In the case of sale:

- i. The acquisition of the property is subject to the RETT rates applicable to the acquisition of a purchaser's own permanent residence;
- ii. The sale of the property is completed within a maximum period of 24 months following the issuance of the documentation relating to the use of the property.

b) In the case of leasing:

- i. The leasing is exempt from VAT;
- ii. The lease agreement is duly reported to the Tax Authority;
- iii. The first lease agreement enters into force within a maximum period of 24 months following the issuance of the documentation relating to the use of the property;
- iv. During the first five years following the issuance of the documentation relating to the use of the property, the property is leased for a minimum period of 36 months, whether consecutive or non-consecutive.

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- **Refund of the VAT borne by individuals in construction works**

A partial refund is provided for VAT borne by individuals, outside the scope of any professional or business activity, on the acquisition of construction services relating to properties intended for their own permanent residence (i.e. where they have their tax residency), provided that the VAT becomes chargeable by 31 December 2032.

This regime applies exclusively to situations in which the acquisition value of the land for construction, or the corresponding taxable patrimonial value if higher, plus construction costs, does not exceed EUR 660,982 (as defined by reference to the RETT Code).

The amount to be refunded will correspond to the difference between the VAT charged at the standard rate and the VAT that would result from applying the reduced rate to the construction works services.

- **Reverse-charge mechanism in the construction sector**

This proposal also provides for an extension of the reverse-charge mechanism applicable to the acquisition of constructions services on residential and non-residential properties to exempt VAT taxpayers.

Whereas, under the regime currently in force, the reverse-charge mechanism only applies where the recipient of the construction services is a taxable person with full or partial entitlement to deduct VAT, this proposal foresees the elimination of this requirement, requiring instead only that the recipient is a taxable person established in the Portuguese territory.

If approved, this amendment will result in the reverse-charge mechanism applying to all acquisitions of construction services carried out under works contracts or sub-contracts, including those performed for taxable persons who are exempt or who have no right to deduct VAT, thereby transferring to such persons the obligation to self-assess the tax.

- **Personal Income Tax ("PIT") incentives for landlords**

- **Capital gains exemption:** Capital gains on the sale of residential property may be exempt from PIT, until 31st December 2029, if the sale proceeds, net of the amortization of any loan used in the acquisition, is reinvested in another property to be used for residential leasing at a *moderate* rent.

The reinvestment must occur between 24 months before and 36 months after the sale, and the taxpayer must declare the (even partial) intention to reinvest in the tax return for the year of sale.

This regime applies exclusively when the acquisition value of the land for construction, or the tax record value (ie. value for property taxes purposes) if higher, plus construction costs, does not exceed EUR 660,982.

- **Reduced flat rate:** The package also foresees, through 31 December 2029, a 10% reduced PIT rate on rental income from residential leases where the monthly rent is equal or less than the *moderate* rent threshold (EUR 2,300).

- **PIT incentives for tenants**

- **Rent deduction:** For tenants, if the rent is *moderate*, the annual PIT deduction for rents paid increases EUR 900 in 2026, and EUR 1,000 from 2027.

- **Corporate Income Tax (“CIT”) incentives for landlords**
 - **Reduction of the amount of rental income effectively taxed:** Only 50% of rental income received until 31ST December 2029 from residential housing leases is taken into account for CIT purposes, if the monthly rents do not exceed the maximum limits of the moderate monthly rent.
- **New renting regimes**

The package on the sale and lease of residential properties created new regimes to which a series of specific tax benefits are associated:

- The **Simplified Affordable Rent Regime (*Regime Simplificado de Arrendamento Acessível* or “RSAA”)**, which generally defines the minimum conditions for a lease or sublease to qualify as an “affordable rental” contract.
- The **Investment Contracts for Rental Regime (*Regime dos contratos de investimento para Arrendamento* or “CIA”)**, which provides for a state-administered framework under which investors enter into a contract with the Housing and Urban Rehabilitation Institute (“IHRU”) to develop, acquire, or rehabilitate housing for rental, receiving a tailored package of fiscal incentives for up to 25 years, with the CIA defining eligible assets, rent caps, and annual indexation rules at signing.

- **CIT and PIT incentives for participants of Alternative Investment Companies and Funds (“AIF”)**
 - **Reduced rate on AIF distributions:** A 5% tax rate applies to investor’s income from AIF units/shares distributions (when compared to the previous 10%), proportionate to the AIF’s income, from residential leases/subleases under the RSAA or other legally similar affordable rental regimes.
 - **Extended income exclusion for AIF investor’s income:** up to a 30% exclusion of the CIT and PIT taxable base attributable to investor’s income derived from AIF units or shares - whether arising from distributions, redemptions, or liquidations - depending on the composition of the fund’s assets consisting of rights over properties intended for residential lease or sublease, or of leases/subleases governed by the RSAA or by legally equivalent affordable-rental regimes:

Eligible assets	Exclusion taxable income
> 5% - 10%	2.5%
>10% - 15%	5%
>15% - 25%	7.5%
>25% - 50%	15%
> 50%	30%

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- **RETT and Stamp Duty ("SD") incentives on the acquisition of the first own and permanent residence**
 - **RETT exemption:** The first acquisition of an urban property or unit intended exclusively as the purchaser's own and permanent home, where the dwelling qualifies as cost-controlled housing ("HCC")* should be exempt from RETT, if the acquisition cost does not exceed EUR 330,539.
 - **SD relief:** Deduction of the amount corresponding to the application of the 0,8% SD rate to the acquisition cost or tax value, if higher (with a maximum amount of EUR 330,539), on the first acquisition of an urban property or unit intended exclusively as the purchaser's own and permanent home, where the dwelling qualifies as cost-controlled housing.

*HCC in Portugal refers to residential units built or rehabilitated that qualify to a special regime through either state support and compliance with maximum limits on floor area and sale/rent prices, or through inclusion in the affordable rent framework, as defined by the regulation revising this regime.

- **SD reduced rate applicable to qualifying AIF's**
 - AIF's whose assets consist, in more than 25%, of rights over properties intended for residential lease or sublease, or of leases/subleases governed by the RSAA or by legally equivalent affordable-rental regimes apply a 25% rebate on the SD rate applicable quarterly on their respective net asset value (i.e. the applicable rate in this case will correspond to $0.0125\% \times 0.75 = 0.009375\%$).

- **RETT applicable to non-residents**

Acquisitions of urban real estate or autonomous units for residential use by non-residents will be subject to a flat RETT rate of 7.5%, not being eligible for exemptions or reduced rates.

An exception is foreseen where (a) the purchaser has already been a Portuguese tax resident; (b) the purchaser becomes a Portuguese tax resident within two years of the purchase; or (c) the property is put into residential lease within six months and the rent is deemed *moderate*, and remains leased for at least 36 months during the first five years from the acquisition.

In these scenarios, the relief is granted via refund whereby RETT is paid on acquisition and the buyer can claim the difference between the rate for non-resident individuals and the rate applicable to residents.

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Non-Residents Income Tax. – Beneficial owner status cannot be required for application of the internal exemption on interest paid to EU residents (Valencia High Court. Judgment of September 30, 2025)

The Nonresident Income Tax Law establishes an exemption on interest paid to EU resident entities. The letter of the law does not make this exemption subject to the recipient of the interest being its beneficial owner (within the meaning of the Directive). However, the tax authorities denied the exemption in a case where the recipient entity was not the beneficial owner of the income. In response to this, the Valencia High Court pointed out that the Spanish domestic legislation introduced that exemption before the Directive and that its legal regime differs substantially from that provided in the Directive. Therefore the letter of the domestic legislation must be observed, which does not contain the beneficial owner clause.

Non-Residents Income Tax – Non-EU and Non-EEA residents may also deduct expenses from their Spanish rental income (National High Court. Judgment of July 28, 2025)

Article 24 of the Non-Resident Income Tax Law allows taxpayers resident in the European Union and the European Economic Area (with effective exchange of information) to deduct expenses directly related to rental income obtained in Spain. Nevertheless, residents outside the European Union and the European Economic Area must calculate this tax on gross income.

The National High Court has recently recognized that right to deduct expenses to taxpayers resident outside the European Union and the European Economic Area.

Right to tax in case of the sale of a majority stake in a real estate company under tax treaties without a land-rich company clause

The Administrative Court of the Canton of Zurich has confirmed the important decision of the Zurich Tax Appeals Court (cf. Real Estate Tax Newsletter Q2/2024) and ruled that Switzerland may not levy real estate capital gains tax on the transfer of a majority shareholding in real estate companies with Swiss real estate unless the applicable double taxation agreement expressly provides for such taxation on the basis of a «land-rich company clause».

The case involved the sale of a majority stake in a real estate company with Swiss real property by a seller resident in Germany. The double tax treaty between Switzerland and Germany does not include a so-called «land-rich company clause», akin to Article 13, Paragraph 4 of the OECD Model Convention.

According to the Zurich tax authorities, the right to levy the real estate capital gains tax lies with the state where the property is located, regardless of whether the tax treaty contains such a clause. The court ruled otherwise and held that given the absence of a land-rich company clause in the double tax treaty between Switzerland and Germany, the right to tax such capital gains belongs to the seller's country of residence – in this case, Germany. The decision was appealed to the Federal Supreme Court.

Lump sum provision for substantial building renovations

In several Swiss cantons, it was previously accepted also for tax purposes (subject to certain limitations) to create provisions for substantial building renovations on a lump sum basis. In 2020, the Federal Supreme Court ruled that provisions for substantial renovations are only tax-deductible if significant expenses are expected that cannot be capitalized, or only partially so, and are not already covered by regular depreciation. In an obiter dictum, the Court added that lump sum provisions may still be appropriate for large real estate companies that regularly carry out extensive renovations and systematically budget for them. Such provisions must not, however, lead to the creation of significant untaxed reserves, which would be the case if long-term provisions substantially exceeded the actual renovation expenses incurred each year.

Following this decision, the Swiss Federal Tax Authority instructed the cantons to adapt their practice accordingly. As a result, several cantons announced to change their practice re lump sum renovation provisions. Some cantons only prohibit the creation of new lump sum provisions and request that existing provisions are offset against actual renovation expenses. Others require the gradual release of unused provisions resulting in taxable income. Some cantons have not yet made any announcement, e.g. Zurich, which is a key real estate canton and has so far applied a relatively generous practice in this regard.

Read more in our blog: [The end of the lump sum provision for substantial renovations?](#)

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Reform of the Taxation of Owner-Occupied Residential Property

On 28 September 2025, Swiss voters approved a constitutional amendment that triggers a fundamental reform of the taxation of owner-occupied residential property. The reform combines two closely linked elements: the abolition of the taxation of imputed rental value and the introduction of an optional cantonal property tax on owner-occupied secondary residences. The entry into force is not expected before 2028.

Under the current system, owners of primary and secondary residences are taxed on a notional rental income (imputed rental value), while benefiting from deductions for mortgage interest, maintenance costs and other property-related expenses. The reform abolishes this system entirely. Imputed rental value will no longer be taxable. In return, most deductions linked to owner-occupied properties will be eliminated.

In particular, mortgage interest and other private debt interest will generally no longer be deductible unless the property is rented and the corresponding income is taxed or used for business. Even then, deductibility will be limited on a proportional basis, depending on the share of rental and business property in the taxpayer's total wealth. A temporary exception applies to first-time buyers of a principal residence in Switzerland, who may deduct limited interest amounts for up to ten years.

Maintenance expenses and insurance premiums for owner-occupied properties will also cease to be deductible, while certain deductions (e.g. for energy-saving measures or replacement construction) may remain available at cantonal level at the discretion of each canton.

The second pillar of the reform authorises cantons to introduce a special property tax on owner-occupied secondary residences. They enjoy wide discretion in designing the tax.

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The Labour Party's highly-anticipated second budget took place on 25 November 2025. The real estate industry was left relatively unscathed but there are number of changes to be aware of. In addition, with the recent publication of the Finance Bill, we now have a good idea what the new carried interest tax regime will look like. For comprehensive coverage of the Autumn Budget please see [here](#).

Introduction of a new "mansion tax" on residential properties worth more than £2 million

The UK Government announced the introduction of a High Value Council Tax Surcharge ("HVCTS"), nicknamed the "mansion tax". The HVCTS will be a charge on owners of residential properties in England valued over £2m and it is proposed that it will take effect from April 2028.

The charge will be applied using four progressive bands, as follows:

Threshold (£m)	Rate (£)
£2.0 – 2.5	£2,500
£2.5 – 3.5	£3,500
£3.5 – 5.0	£5,000
£5+	£7,500

The UK Government is launching a consultation early this year which is set to cover applicable reliefs and exemptions, as well as specific rules for companies, funds, trusts and partnerships.

Fundamental reform of the UK's carried interest tax regime

From 6 April 2026, all carried interest returns will be subject to tax as trading income at rates of up to 47%. Provided, broadly, that the fund that is paying the carried interest has a weighted-average holding period for its assets of at least 40 months, only 72.5% of it is taxed at the 47% rate (with the remainder left untaxed). The result is an effective tax rate for this "qualifying" carried interest of around 34.1%.

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The new 34.1% rate may improve the position of real estate fund managers because it is common for them to be unable to access the current 32% capital gains tax rate, due to a significant amount of their returns being income in nature (e.g. rent) and therefore taxable at rates of up to 45%.

Please see our [briefing](#) for more detail of the new regime.

2% increase to income tax rate on property income

The Autumn Budget included an increase to the income tax rate on property income (i.e. any income from letting land and buildings). From April 2027, and the following rates will apply:

Property basic rate	22%
Property higher rate	42%
Property additional rate	47%

Increase to property income distribution withholding tax rates

As part of the increase in property income tax rates, the rate of withholding tax paid on property income distributions from UK REITs (real estate investment trusts) and PAIFs (property authorised investment funds) is set to increase from 20% to 22%.

Business rate changes

Business rates are a tax on UK non-domestic properties. They are calculated as follows:

Business rates = (rateable value x by the relevant multiplier) - eligible reliefs.

From April 2026, two new lower multipliers for lower-value retail, hospitality and leisure properties will be introduced to support those sectors. However, it will be funded by the introduction of a higher multiplier for all higher-value properties.

The rateable value of all properties is set to be updated when they are revalued in April. This will lead to winners and losers, depending (generally) on, for any given property, whether multiplier reductions outweigh rateable value increases.

Other minor changes announced in the Autumn Budget

In relation to the real estate sector, the UK Government has:

- announced that it would consult on the reform of the VAT rules to incentivise the development of land intended for social housing;
- proposed new countermeasures (including liability for companies and their directors) to tackle fraud in the construction industry scheme (CIS); and

- clarified that when looking at a protected cell company (i.e. a company made up of separate cells where the assets and liabilities of one cell are segregated from those of another), if you are testing whether a company is "UK property rich" for the purpose of the UK non-resident capital gains tax regime, you look at the position of each cell and not the company as a whole.

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New Section 892 Regulations Impacting Real Estate Investments

In December 2025, the IRS released final and proposed regulations under IRC Section 892, which provides tax exemptions for certain income earned by foreign governments. The rules significantly revise when the exemption is unavailable—primarily when a Section 892 entity engages in commercial activity (CA) or receives income from a controlled commercial entity (CCE). The changes may impact both direct investors and funds with Section 892 capital.

Favorable updates include narrowing the US real property holding corporation per se rule so it applies only to U.S. corporations, not foreign corporations controlled by Section 892 investors. The IRS also added a minority interest exception allowing certain U.S. corporations to avoid CCE status when classified as USRPHCs solely due to small, non-controlling positions in other entities. The limited partner exception is refined so that holding a qualified partnership interest does not by itself make the investor engaged in commercial activity, though income from the partnership's commercial activity remains taxable. The proposed regulations also broaden the concept of "effective control," allowing governance rights or influence—not just ownership—to trigger CCE treatment.

The final regulations apply to tax years beginning on or after December 15, 2025, while the proposed rules will apply only once finalized, no earlier than 2027.

Changes to Domestically Control REIT Look-through Rules

In October 2025, the IRS issued proposed regulations that reverse prior guidance on how to determine whether a REIT is "domestically controlled" for purposes of the FIRPTA exemption.

The proposed regulations restore a more taxpayer-friendly approach that allows foreign investors to structure their REIT investments through U.S. corporations to qualify for the domestically controlled REIT exception and limit U.S. taxation. The 2024 final regulations had imposed a strict "look-through" rule, requiring analysis of the foreign ownership of domestic corporations when determining a REIT's ownership profile. This created complexity and uncertainty and limited the ability of foreign investors to use domestic blockers to reduce their counted foreign ownership. In response to taxpayer criticism, the IRS proposed eliminating this look-through rule and instead treating all domestic corporations as domestic, regardless of their foreign shareholder composition.

Taxpayers may rely on the more favorable rules for transactions after April 24, 2024, even before the regulations are finalized. As a result, foreign investors may use domestic corporations to hold REIT shares and achieve domestically controlled status and avoid FIRPTA taxation on exit. Modeling remains important because the domestic corporation will incur U.S. tax on REIT income and gains.

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Real Property Tax Appeals

Don't miss your real property tax appeal window; deadlines can be short and vary by jurisdiction. Real property tax assessments often have strict filing cutoffs for appeals, so now is the time to review your latest assessment notices, valuations, and comparable data to determine appeal eligibility and get filings submitted timely. A proactive review can help reduce recurring tax expense and protect NOI before the next tax bill is locked in. Triple-net (NNN) and tax pass-throughs can often still be appealed, and often with meaningful savings. Even when the landlord is the taxpayer, property tax costs are commonly passed through to tenants under NNN and other lease structures, so tenants may have an opportunity to appeal assessments by working collaboratively with lessors/owners, property managers, and tax reps to pursue reductions and address valuation issues. We help assist with evaluating potential property tax opportunities for our clients.

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