

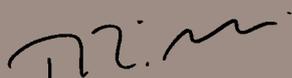


EDITORIAL

The Swiss real-estate stock is ageing. At the same time the demands in terms of energy and environmental performance are increasing (there is room for the energy requirement of all residential and business buildings in Switzerland to be reduced by 50% to 70%. Source: Federal Office of Energy). This means that a large area is opening up for renovation works. It is an area that has still not been tapped sufficiently, because many obstacles admittedly stand in the way: the large number of different operators involved, legal complexities, the difficulties inherent in carrying out works when occupants are present and also the lack of operators who specialize specifically in this area.

These observations have prompted us to establish our SPG PRORENOVA department, a multi-disciplinary team who is perfectly familiar with the difficulties on the ground and is devoted to a single mission: analysing rigorously and in-depth the condition of existing buildings and assessing the need for technical interventions, aimed either at preserving or at increasing their value and ability to generate a return. This includes - depending on the individual cases - technical, financial, fiscal and legal parameters as well as those relating to energy performance, adequacy in relation to market demand, occupants' comfort, etc.

This Newsletter therefore takes a first look at some particularly topical parameters that need to be considered since they concern the relationship between taxation and works designed to optimize buildings' energy performance.



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Ecological taxation and real-estate ownership

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Tax law is an increasingly important vector in the context of environmental protection. The levying of environmental taxes or charges has indeed expanded greatly in recent years. Revenue deriving from these levies in Switzerland doubled between 1990 and 2006 and represented approximately CHF 9,6 billion in 2006. The intended objective of these levies is to limit damage to the environment by increasing the price of certain products or activities that are harmful to it. For example, levies are aimed at transport (e.g. charge on heavy goods traffic), energy (e.g. hydrocarbon taxes), emissions (e.g. CO₂ tax) or resources (e.g. hydroelectric power charges).

Ecological taxation also gives rise to an incentive to adopt positive behaviour patterns that benefit the environment, viz. for example, by encouraging the taking of certain ecological measures through tax breaks. As far as real estate is concerned, private property owners are encouraged to carry out works that have environmental aims. Expenditure incurred in order to economize on energy consumption or to ease the burden on the environment may, subject to certain conditions, be totally or partially deducted from their taxable income.

Maintenance expenses and investment expenditures

As a general rule, a property owner can claim to deduct the expenditures incurred for the maintenance of his/her real estate. This comprises in particular operating expenses (maintenance and lighting expenses for the shared-use rooms, elevator maintenance expenses, concierge's remunerations, water treatment tax, etc.), the expense of administration by third parties, but also maintenance expenses aimed at preserving the real estate in its original state. On the other hand, this does not include expenditures that exceed compensation for the normal

wear of the real estate and which can no longer be deemed to be connected with usage thereof and the passing of time. Expenses exceeding what is necessary to preserve the value of the asset and leading to an increase in its real value are not tax-deductible. Such expenses are deemed to be investment expenditures.

In view of their nature, expenditures intended to save energy and reduce the burden on the environment are of a mixed nature, depending on the individual cases. To the extent that they are intended only to maintain the value of the property, they must be designated as maintenance expenses (tax-deductible). On the other hand, if they lead to an increase in the value of the property, they form part of investment expenditures (which are not tax-deductible). However, in order to encourage property owners to make investments of benefit to the environment, the legislator has decided to designate these expenditures as tax-deductible expenses on account of their purpose.

Energy-saving and environmental-protection expenditures

A taxpayer who owns a piece of real estate among his/her private assets (as opposed to his/her commercial assets) may deduct not only the expenses necessary for its maintenance but also the investments intended to save energy and ease the burden on the environment. Such expenses are then treated in the same way as maintenance expenses (article 32 para. 2 of the Federal law on federal direct tax; article 9 para. 3 of the Federal law on harmonization of cantonal and municipal direct taxes; article 6 para. 4 of the Geneva cantonal law on the taxation of natural persons LIPP-V).

One of the main conditions that allow the taxpayer to deduct environmental expenditures

requires that the latter should have been incurred in order to rationalize energy consumption or to make use of renewable energy forms (article 5 of the Ordinance on deduction of expenses relating to private real estate in the context of federal direct tax).

A list of the measures preparing the ground for deduction was enacted by the Federal department of finance (Ordinance on measures to encourage rational energy use and utilization of renewable energy forms), and was then largely taken over by the Geneva tax administration (information n° 2/2007 and notice n° 1/2007). It is important to specify that the list serves only as an example, so that other measures may also come into consideration, but only if they pursue the ecological aims laid down by law.

The deductible investment expenditures are divided into four categories: (1) measures aimed at reducing energy losses, (2) measures taken to encourage rational energy use, (3) energy analyses and energy master plans and, finally, (4) the renewal of certain domestic appliances.

Measures aimed at reducing energy losses from the building shell

The measures referred to are more particularly the replacement, improvement or fitting of heat insulation on the floors, roofs, ceilings and walls next to unheated rooms and outside walls and as well as the replacement of windows with more energy-efficient models. To this should be added the fitting of seals, the installation of unheated air-locks or the renewal of Venetian blinds or roller blinds.

Measures taken to encourage rational energy use in the installations of the building

The prime aim is to encourage the switch to more ecological energy sources. In Geneva, the measures promote in particular the switch from electric central heating to oil- or gas-fired central heating or the switch from using heating oil as a fuel to gas.

The connection to a district heating network or the installation of an alternative system also comes within the scope of these measures. The renewable energies that are encouraged are solar energy, geothermal energy, captured ambient heat (with or without a heat pump), wind energy and biomass, (including wood or biogas). For example, the installation of solar panels for the production of hot water, to supplement an existing boiler, are included in the catalogue of deductible expenditures. On the other hand, it should be pointed out that hydroelectric energy is not one of the renewable energy forms that are encouraged.

It is also appropriate to note that the fitting and renewal of additional installations are also tax-deductible. For example, mention can be made of automatic devices for regulating heat generation, thermostatic valves, thermal insulation of pipes, taps or boilers, measuring devices used to record consumption and optimize functioning as well as apparatus connected with individual metering of heating and hot-water expenses.

Lastly, the conversion of a conventional chimney into a hot-air chimney as well as any heat-recovery measure entitle the owner to tax deductibility of the relevant expenditures.

Energy analyses and energy master plans

All the design expenses and fees relating to the works actually carried out to save energy and use renewable energy forms are deemed to be tax-deductible expenditures.

Renewal of energy-guzzling household appliances

The law is aimed here at energy-guzzling household appliances that form part of the value of the property, that is, in particular cookers, ovens, refrigerators, deep freezers, dishwashers, washing machines, lighting equipment, etc.

Scope of the allowed deductions

When the expenses incurred by the property owner come within the scope of the energy-saving and environmental-protection expenditures referred to by the above-mentioned categories, they may be deducted from taxable income with respect both to federal direct tax and cantonal and municipal taxes.

For each fiscal period the taxpayer may opt either for deduction of the actual expenses or for a lump-sum deduction. If he/she chooses the lump-sum deduction, the latter will then include the expenditures incurred for environmental-protection purposes, which will therefore not be allowed to be the subject of a specific additional deduction.

If, on the other hand, the taxpayer opts for deduction of actual expenses, the deduction will consist of the expenditures that he/she will actually have paid for. In other words, when the owner benefits, for example, from a public subsidy for the renovation of his/her real estate, only the amounts not covered by the subsidy will be allowed to be deducted.

In addition, only expenditures incurred in connection with an existing building are deductible,

that is, those relating to the replacement of obsolete constructional elements or installations or to the addition of new constructional elements or installations. Deduction is not allowed when the expenses are incurred as part of new constructions or as part of a renovation which is analogous to a new construction.

It is important to point out that the expenses incurred over the first five years following purchase of the real estate are only deductible up to a limit of 50%. Once this deadline has passed, the deduction allowed is full.

The latter rule originates from a practice that resulted from the case law of the Swiss Supreme Court («the Dumont practice»), according to which the expense of renovating a property the maintenance of which has been neglected by its former owner is not deductible for the first five years following purchase of the real estate. However, it is envisaged that this practice will be repealed. According to the solution advocated by the Federal Council (the Swiss Government), the deduction of property-renovation expenses would be allowed immediately after the purchase of a property, even for those whose maintenance has been neglected, and would apply to both federal and cantonal and municipal taxes. A draft law has been broadly accepted by the lower House of Parliament and now has to go to the upper House. If accepted, the repeal of the Dumont practice should, in our view, also have an effect on energy-saving and environmental-protection expenditures and render them entirely tax-deductible as of the time at which the real estate is purchased. ■



Thanks to the experience Société Privée de Gérance has gained of multiple services, SPG PRORENOVA makes its skills available to its customers to assess the advisability of a renovation, draw up an advantageous plan and ensure that it is executed by taking care of all the works monitoring. Enhancement of a property's value may range from small-scale interventions to change the atmosphere and decors to larger-scale operations to fit out lofts or add additional storeys.

SPG PRORENOVA uses uniform methods to analyse the renovation requirements and proposes to customers the works that would be necessary in the short-term to ensure the long-term value of their property.

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