

LEASING

CURRENT SITUATION

Development of the financial leasing sector in Serbia started at the beginning of 2003, when the Law on Financial Leasing was promulgated. After the Law has been adopted, a very rapid market development followed and the initial number of 9 registered financial leasing companies eventually rose to currently 17 companies. The leasing companies which are currently operating in Serbia are mainly affiliates of renowned international financial institutions and leaders of banking and financial sectors in the markets of Central and South-East Europe. These corporations have introduced their knowledge and high corporate standards to the Serbian market, as well.

In terms of liquidity, at the time when the economy is hit by solvency crisis, even during the world economic crisis, leasing companies are faced with surplus of liquid resources! It would be good to consider the possibilities of creating additional and stimulating prerequisites for reinvesting such surplus resources into the economy, in order to avoid the situation when the leasing companies, in absence of adequate opportunities to invest in Serbia, decide to return them prematurely to their creditors, thus reducing again the potential investment.

POSITIVE DEVELOPMENTS

At an early stage of the market development, mainly financial leasing was offered while from 2006 the offer diversified to include the operational lease, the so called "rent", too. Both types of financing represented very important sources of mid-term and long-term financing and one of the most efficient solutions for purchase of plant & equipment necessary for business operations of economic operators. The structure of asset exposure from the lessee's perspective confirms that the main purpose of financial leasing in Serbia has been financing the real capital sector, meaning that over 90% of asset exposure was channeled exactly to this segment. From 2003 until 2009, financial leasing in Serbia was instrumental in financing purchases of plant & equipment in excess of 3 billion Euros.

REMAINING ISSUES

For the purpose of better understanding of leasing issues, we would like to mention only some examples which, if provided for, would greatly improve the prerequisites for further unhindered and high-quality financial leasing in Serbia. Bringing the following issues into line, making the necessary amendments and removing the current limiting factors would certainly create the prerequisites for further development.

- To initiate amendments to the Law on Financial Leasing, so that an immovable can also be the subject of financial leasing. According to the current Law on financial leasing, only a "non-consumable movable property" can be the subject of a financial leasing;
- To initiate amendments to the Law on Financial Leasing which would define the minimum duration of a leasing contract of no less than two years, and that the lessee may, if he can afford it, pay out the whole leasing fee; furthermore, if provided for under the contract, it should be possible to transfer the acquired right of ownership over the subject of leasing;
- To initiate amendments to the Tax Law provision or to provide an interpretation of the same article regarding the company profit tax ("the tax payer who invests into plant & equipment for his own registered business activity will be entitled to a tax credit amounting to 20% of the investment, providing it does not exceed 50% of the calculated tax for the year in which the investment has been made"), meaning that companies which obtain plant & equipment by financial leasing are also eligible for the tax credit. The companies which invest in plant & equipment, respectively those that obtain such funds through financial leasing contracts shall not be eligible for the tax credits since the lessor remains the owner of subject resources for the whole duration of the contract on financial leasing;
- The Law on Value-Added Tax should be amended in the part which refers to interest rates. According to our own understanding, interest rates are financial services which are even entered into books on the credit side periodically, and it would make sense that they are treated as such under the Law on Value-Added Tax;

● Another example of how it would be possible to improve significantly the leasing market refers to a not fully consistent approach to treatment of all types of leasing, and the tendency of tax authorities “not to recognize” an operational leasing as a separate legal affair, but to classify it as a financial leasing. Such an approach significantly restricts the client’s options which are indispensable for this type of financing, and limits

the operation of leasing companies which are involved in this type of financing. Imposing constrains on such a legitimate option would potentially impact not only the investment scope and reduce the client’s options, but it would unmistakably lead to fewer direct investments in form of leasing operations in Serbia, which is even more detrimental.

FIC RECOMMENDATIONS

- To initiate amendments to the Law on Financial Leasing, so that an immovable can also be the subject of financial leasing;
- To initiate amendments to the Law on Financial Leasing which would allowed no restriction of the minimum duration of a leasing contract;
- Also, changes of the Tax Law provision regarding the company profit tax should equal investments by leasing with other kinds of investments;
- To initiate amendments to the Law on Value-Addede Tax, so that interest rates are treated as financial services;
- To define transparent tax treatment of operational leasing/rent.