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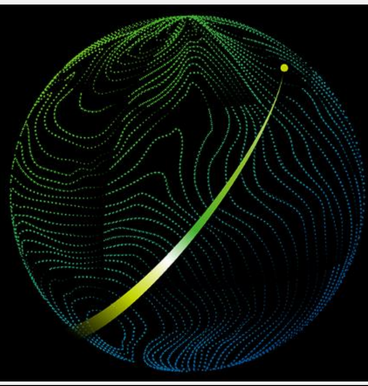

Tax Alert

Tax Reform | Belgium

Finance Minister releases amended proposal for a “broad tax reform”

The Federal Minister of Finance released an amended proposal for a “broad tax reform”. The proposal includes a set of individual tax measures that would result in a reduction of the tax burden on labor for a total amount of 6 billion Euro. To ensure budget neutrality, these measures would be compensated by an increase of taxes on wealth and consumption. In addition, certain corporate tax regimes would be strengthened.

It looks like most of the measures would be applicable as of 1 January 2024. According to the Minister, this reform will need to be followed by a second reform after the parliamentary elections taking place in 2024.

Below you will find a high-level overview of the most important measures, potentially affecting individuals and companies.

It is important to note that the Government still needs reach an agreement on this reform. In addition, the measures as described below may be subject to amendments throughout the legislative adoption process.

Further details and updates will follow in due course.

Objectives and guiding principles

The major objectives of the tax reform would be to (i) increase the employment rate, (ii) support the climate ambitions, (iii) encourage entrepreneurship, (iv) stimulate investment, (v) combat poverty and (vi) support families’ purchasing power.

At the same time, it is the Minister’s ambition to simplify the personal income tax system. The plan would be to phase out “as much as possible” deductions, tax reductions and exceptional regimes, while also organizing a “gradual shift from alternative forms of remuneration to remuneration in Euros”.

Opportunities for optimization should, according to the Minister, be minimized or discouraged.

Individual tax measures

Fringe benefits

The new proposal would provide for an alignment of the tax treatment of some lump sum benefits in kind with the social security treatment. This would not affect the recent reform of the taxation of company cars.

Financial remuneration instruments

Stock options

Several measures would be taken to avoid "improper use" of the stock option law of 26 March 1999. The applicable rules would also be included in a separate chapter in the Belgian Income Tax Code. The proposed changes would include, amongst others, the limitation of the scope of application to non-transferable / sellable options on shares of the employer.

Grant of free/discounted shares or profit certificates

For shares and profit certificates acquired at a discounted price (or even for free), the reform would introduce a new tax regime, based on two principles:

- deferral of the taxation as professional income of the acquisition gain (i.e., the difference between the purchase price and the market value upon acquisition) until the alienation (e.g., sale); and
- taxation of future realised capital gain (i.e., difference between the sale price and the market value upon acquisition) at a flat tax rate of 15%.

Carried interest and management incentive plans

Regarding carried interest and management incentive plans, a clear framework would be included in the law. "Excessive return" for management (compared to ordinary shareholders) would be subject to a flat tax rate of 35%.

Entry into force

The new provisions would be applicable to financial instruments granted as of 1 January 2024.

Second pillar pensions

The tax regime related to second-pillar pensions would also be adjusted to increase the system's efficiency through simplification, with the aim of encouraging more employees to join the second pillar.

For this reason, the existing 80% limit would be abolished and replaced by a new system in which the maximum amount of contributions or premiums to be paid would henceforth be formulated as a percentage of wages.

Reduction of labor costs

The reform aims to introduce a tax reduction on labor of almost 6 billion Euro as from 1 January 2024. This effort would be spread over three years. By means of this tax reduction, the Government aims to increase the purchasing power and strengthen the employment rate.

The tax reduction would be achieved through a set of measures, consisting of an increase in the tax-free sum, a broadening of the 45% rate bracket and a reinforcement of the work bonus and the tax credit for low activity income.

Restore neutrality forms of cohabitation

The reform also aims to "restore" neutrality in the forms of cohabitation and to modernize Belgium's family tax system.

The marital quotient system would be abolished, but a grandfathering rule of 20 years would apply to cases where the spouse to whom part of the professional income of the other spouse is attributed to has reached statutory retirement age. For spouses who have not reached the statutory retirement age, it is proposed to reduce the maximum amount of the marital quotient to 35% of the current maximum amount as of tax year 2025 and to eliminate the marital quotient entirely as of tax year 2026.

The tax deductibility of alimony payments would also be phased out, but transitional measures would also be foreseen for alimony payments paid or granted before 31 December 2023, which are also set at 20 years.

In addition, fiscal co-parenting would be streamlined, depending on whether the situation is regulated by judgment with equal residence or by agreement, to encourage parties and judges to also consider the fiscal component of co-parenting.

Furthermore, the supplement to the tax-free allowance for single persons for tax purposes would be redefined to guarantee that only the truly single persons can benefit from this supplement and no longer persons who are single taxpayers, but factually living together.

In addition, the maximum amounts of net subsistence to be regarded as a dependent child would be harmonized so that they no longer depend on the child's family or individual situation.

Finally, a further increase in the tax deduction for childcare would be foreseen, with the aim of supporting the active population in caring for their families. As of tax year 2025, a maximum amount per child per taxable period would also be proposed.

Business tax measures

Exemption from payment of withholding tax for R&D

The reform plans to increase legal certainty in the application of the exemption from payment of withholding tax for research and development. With regard to the application of this measure to companies, the division of powers between the various government departments are more clearly defined and the modalities of application are better described. With regard to the application of this measure in respect of universities and colleges, it is clarified which criteria apply to qualify as an eligible researcher and, given the special financing method of teaching staff, it is clarified that the exemption from paying withholding tax on earned income can be applied by the Government paying the eligible remuneration.

Innovation income deduction

With respect to the innovation income deduction scheme, the plan is to tighten up the definition of a patent that qualifies for the application of the innovation deduction. This would increase legal certainty as to which patents effectively meet the requirements regarding novelty and other patentability conditions.

Dividend received deduction

The dividend received deduction (DRD) regime would be revised. The plan would be to replace the existing deduction with an exemption (DRE). The minimum participation threshold of 2.5 million Euro (which goes beyond the European Parent-Subsidiary Directive) would be retained, on the understanding that from now on it would be required that it must concern a participation in a company with which a long-term relationship is being built. The mere investment therefore would no longer confer a right to the application of the DRE. In the same spirit, so-called investments in collective investment funds would also be excluded from the scope.

Investment deduction

The proposal also provides for a rationalization and update of the investment deduction. The aim is to arrive at a simpler system with a three-stage approach.

A basic investment allowance would be provided to encourage companies to invest in new fixed assets. A rather limited percentage would be provided for this.

Subsequently, a substantially increased investment deduction would be applicable for targeted investments for which it is "socially relevant" to encourage such specific investments.

Furthermore, the pre-draft bill puts forward a number of explicitly excluded investments. As is also the case today, a distinction would be made according to whether the investment is made by a natural person, a small company or by a large company. Large companies would not be entitle to make use of the basic investment deduction, and the rate of the increased investment deduction would be lower than for natural persons and small companies.

Finally, the scope of the tax credit for research and development would be extended, creating a new tax credit that would also include the other specific categories of the investment deduction.

To support companies in their sustainable climate transition, they would - in addition to the investment deduction- also be able to benefit from a doubling of the linear depreciation percentage for investments in climate-neutral technologies.

Minimum corporate tax

In addition, the Government is working on the transposition of Directive 2022/2523 regarding the minimum tax. This minimum tax would ensure that large multinationals pay a minimum of 15%. pay taxes, thus creating a level playing field for Belgian SMEs "that have fewer options for tax planning".

Indirect taxes

The reform also contains a component that focuses on sustainability and health.

VAT

In the field of VAT, a major reform is also envisaged, especially a reform of the VAT rates.

First of all, this VAT rate reform aims to meet several social wishes by providing a 0% tariff for a number of important basic products. This mainly concerns fruit and vegetables, medicines, diapers and other products for intimate hygiene protection, and public transport.

In addition, the tariff reform aims at adjusting the tariff structure whereby the existing reduced tariffs of 6% and 12% would be integrated into a new reduced rate of 9%. However, the 6% rate would be retained for utilities (for domestic use) to which everyone must have access, such as electricity, natural gas and heat via heating networks, as well as tap water. On the other hand, coal, as a highly polluting fuel, would become subject to the normal rate of 21%.

Finally, the tariff reform aims to consolidate the currently temporary reduced rate for demolition and reconstruction of the sole and private home, albeit at the new rate of 9% instead of the current rate of 6%. This reform would be achieved by replacing the current Royal Decree setting the VAT rates and classifying goods and services at those rates.

In addition, the proposal also contains measures aimed at improving the effective collection of the VAT actually due. The VAT gap would be further reduced through e-invoicing and e-reporting.

The rules for e-invoicing would be introduced in phases. They would entry into force:

(I) as from 1 July 2024 for the in Belgium established taxpayers with an annual turnover, excluding VAT, during calendar year 2023, of more than 9,000,000 Euro;

(II) as from 1 January 2025 for the in Belgium established taxpayers with an annual turnover, excluding VAT, during calendar year 2023 of more than 700,000 Euro but not more than 9,000,000 or more than 700,000 excluding VAT during calendar year 2024 and

(III) as from 1 July 2025 for the other taxpayers. An entry into force as from 1 January 2028 is foreseen for small companies and agricultural companies.

Excise duties

Existing subsidies for fossil fuels in the form of reduced excise duties would be further phased out. Thus, the advantage that exists for “professional diesel” would be further reduced in line with the situation in our neighboring countries. Furthermore, various exemptions for fossil fuels, such as kerosene, heavy fuel oil and gas oil (“red diesel”), but also coal, coke and lignite, used for specific purposes, would be reformed.

A new rate would be introduced for kerosene and gas oil used for specific purposes. This new rate would replace certain exemptions currently provided for. The tariffs for kerosene and gas oil used for heating purposes, as motor fuels for industrial and commercial purposes and for the new category of "specific purposes" would be harmonised.

In addition, flanking measures would be implemented to combat fraud and abuse. For example, the application for reimbursement of excise duties in the context of professional diesel would have to be submitted electronically.

Finally, excise duties on tobacco would be further increased in the context of a comprehensive and strong anti-tobacco policy.

Annual tax on securities accounts

In order to partially offset the budgetary impact of the reduction in personal income tax, an increase in the rate of the annual tax on securities accounts is also envisaged.

Reform ruling practice

Finally, the proposal also aims to reform the ruling practice. In order to strengthen the legal certainty of prior decisions, the plan is to implement a clear framework of cooperation between the relevant departments/administrations of the Public Service Finance.

Contacts

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