



## Corporate tax alert Belgium

### Recharged stock option costs are not deductible says Brussels Court of Appeal



Download the  
Deloitte Belgium  
mobile App  
A wealth of information  
within your finger's  
reach

An Android version will be available  
at a later point in time

In April 2010, the Brussels Court of First Instance rejected the deduction of stock option costs insofar as they are related to capital losses on shares recharged by a foreign affiliate to the Belgian employer of the beneficiary.

The Brussels Court of Appeal has rejected the appeal lodged by the taxpayer in its decision dated 25 June 2014.

The technical reasoning of the Court of Appeal can be summarised as follows:

- capital losses on shares are disallowed based on an explicit provision in the Income Tax Code;
- this provision not only refers to capital losses in the hands of the Belgian shareholder but also to capital losses incurred abroad by the foreign shareholder and recharged to a Belgian entity. Stated differently, a recharge does not alter the nature of the underlying cost;
- the recharged capital loss cannot be deducted as a salary cost because there is a specific provision in the Income Tax Code that disallows this specific cost.

#### Contacts

Any questions concerning the items in this publication? Please contact your usual tax consultant at our Deloitte office in Belgium

For general inquiries contact:  
[bedeloittetax@deloitte.com](mailto:bedeloittetax@deloitte.com), + 32 2 600 60 00

Be sure to visit us at our website: <http://www.deloitte.com/be/tax>



[Deloitte Belgium](#)

Berkenlaan 8A, 8B, 8C  
1831 Diegem  
Belgium

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a more detailed description of DTTL and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's more than 200,000 professionals are committed to becoming the standard of excellence.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

Click [here](#) to (un)subscribe or modify your subscription.

© 2014. For information, contact Deloitte Belgium.