



Corporate tax alert

Belgium

Commission opens in-depth investigation into excess profit rulings

A wealth of tax information
within your fingers' reach
Discover Deloitte's apps



Belgium app



Global tax app

In December 2013 the European Commission started an informal, preliminary investigation into the compatibility of excess profit rulings with the EU state aid rules. The Belgian Government confirmed at various instances that it believes these rulings merely apply the OECD transfer pricing guidelines and should be considered EU compliant.

The Commission however, has serious doubts about this and [announced today](#), 3 February 2015, that it has opened an in-depth state aid investigation into the excess profit rulings. The opening of such investigation does not prejudice its outcome of the investigation. The Commission will only take a final decision at the end of the in-depth investigation; it should be noted that there is no legal deadline for completing this procedure. In case there is a negative decision, the Commission in principle orders recovery of the aid already granted. All Commission decisions are subject to review by the General Court and ultimately the Court of Justice.

According to the Commission, the excess profit rulings seem to create a serious distortion of competition as they are only available to multinationals but not to companies only active in Belgium. Furthermore, the Commission believes that Belgium wrongly interprets OECD transfer pricing principles and overestimates the benefit of being in a multinational group. Moreover, avoidance of double taxation cannot be invoked to justify the rulings as there does not seem to be double taxation.

Deloitte will provide updates on any relevant developments.

Contacts

If you have any questions concerning the items in this alert, please contact your usual tax consultant at our Deloitte office in Belgium.

For general inquiries, please contact: bedeloittetax@deloitte.com.

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 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.

© 2015. For information, contact Deloitte Belgium.