Corporate tax alert
Belgium

Corporate income tax reform: quo vadis?

The April 2016 budget control agreement requested the Finance Minister to propose, by the end of September 2016, alternatives for a reform of Belgium's corporate income tax (CIT) regime.

With its 33.99% rate, Belgium has one of the highest nominal CIT rates in the EU. In practice, the effective tax rate is often lower because of a number of important incentive or 'niche' regimes. Many of those regimes have lost their attractiveness, mainly as a result of BEPS and various EU initiatives.

As commented upon in the press, the Minister is in the final stages of preparing a CIT reform plan. The reform is intended to be budget neutral, whereby the tax rate reduction should mainly be funded by abolishing most of the 'niche' regimes and other compensatory measures within the CIT regime itself. In addition, the regime should be simplified where possible.

Although the draft plan may obviously be subject to change and must still be formally discussed within the government, it nonetheless provides directional cues on what shape the CIT reform may take.

Tax rate reduction

The gist of the minister's draft plan is to gradually but significantly reduce the Belgian headline CIT rate from 33.99%

to 28% in 2017, to 24% in 2018 and to 20% in 2019. The 3% crisis surcharge would be phased out on a linear basis over the same 3-year period.

These rates would apply to all CIT taxpayers. Hence, the reduced rate regime for SMEs would be abolished (subject to a transitional regime for SMEs during the 3-year phase-out period). However, a special regime would be available to start-ups (qualifying as SMEs) during the first 5 taxable periods.

Simplification

In light of the tax simplification objective, the draft plan proposes to eliminate a number of 'complex' taxes and other tax obstacles, such as:

- an abolition of the 'fairness' tax;
- an abolition of the 0.412% tax on capital gains on shares realised by MNEs;
- an increase of the dividend received deduction from 95% to 100%.

Budget neutrality

To ensure that the contemplated tax rate reduction and simplification occur in a budget-neutral framework, the draft plan proposes a range of compensatory measures. These measures consist of (1) a broadening of the CIT base, (2) an increase of the dividend withholding tax and (3) some miscellaneous measures.

Broadening of the CIT base

The CIT base would, according to the draft plan, be broadened in three phases, in line with the rate's decrease. The following measures, among others, are being considered:

- An abolition of the notional interest deduction (NID) regime, whilst maintaining the possibility to deduct any remaining NID carried forward before tax year 2013;
- A limitation of the deduction of tax losses carried forward to EUR 1 million plus 60% of the excess per taxable period;
- A limitation of the deduction of interest expenses in line with the Anti-Tax Avoidance Directive (subject to grandfathering loans contracted before a certain date);
- A phase-out of the investment deduction (ID) regime (the R&D tax credit would, conversely, continue to exist), with a potential grandfathering of ID carried forward;
- An amendment of the tax depreciation rules with the effect of, amongst others, abolishing the declining balance depreciation method;
- An amendment of the general rule for tax deductibility of business expenses as well as amendments to certain disallowed expenses.

Dividend withholding tax

Besides changes within the corporate income tax regime itself, the minister's draft plan proposes to gradually increase the rate of dividend withholding tax from 27% to 28% in 2017, 29% in 2018 and 30% in 2019.

Other compensatory measures

The minister's draft plan also contains a number of measures to discourage individuals from exercising their business activities in the legal form of a company, as well as some other measures (such as a broadening of the substantial shareholding capital gains tax).

Next steps

Once final, the draft plan should be discussed among the coalition parties within the context of the government's upcoming budget negotiations. It is at this stage uncertain if and when an agreement will be reached on the CIT reform.

Contacts

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