

Corporate Tax Alert

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10 December 2013

Draft law containing tax provisions deposited

After the Council of Ministers approved, on 6 December 2013, the draft bill containing miscellaneous tax provisions as amended after the State Council's advice, this draft was on that same day deposited with the House of Representatives and is now available on their website. The document can be accessed by [clicking here](#). The draft bill has already been scheduled for the agenda of the Finance Committee meetings on 10 and 11 December 2013.

The most relevant provision is the adjustment (as of tax year 2014) of the NID legislation to take into account the Court of Justice's decision in the Argenta case. More information in this respect can be found in the [28 October 2013 Corporate Tax Alert](#). The State Council criticised this new regime but the explanatory memorandum contains an extensive justification from the Government on why they believe the new regime adequately addresses the Court's concerns.

Below is a brief overview of a few other relevant provisions in this draft bill:

Income taxes

- Benefit in kind company cars: for benefits granted as of 1 January 2014, the annual CO2 emission update for a given taxable period will be made on the basis of the 12-month period ending on 30 September of the previous taxable period (so, e.g., for taxable period 2015: period 1 October 2013 - 30 September 2014), in order to have the new CO2 emission reference available for payroll tax purposes by 1 January of each year.
- A technical change to Art. 304 ITC (as of tax year 2014) enabling any excess of Belgian withholding tax and tax prepayments to also be credited with the new fairness tax.
- A new provision is introduced to give tax inspectors the opportunity to obtain the taxpayer's books and records and keep them for an audit in their offices (or request a copy), provided these books and records are required to determine the taxable base.

VAT (all applicable as of 1 January 2014)

- Intra-Community acquisitions: the administrative burden caused by the intra-Community acquisition of goods, the supply of which would in any case be exempt from VAT, will be avoided by treating these as transactions not subject to VAT.

- Permanently fixed machinery & equipment: to comply with the EU Directive, the supply of permanently fixed machinery and equipment ("*blijvend geïnstalleerde werktuigen en machines / outillages et machines fixés à demeure*") is excluded from the exemption for real estate leases.

Indirect taxes (other than VAT)

- Registration duties: abolishment of the possibility to claim the "condemnation duty" ("*veroordelingsrecht / droit de condamnation*") payment from the beneficiary of the condemnation.
- Miscellaneous duties and taxes: abolishment of, among others, the levy of a 5 Euro duty upon delivery of patents.

Contact

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

- Geert Lowagie, glowagie@deloitte.com, + 32 2 600 67 17

For general inquiries contact:

- bedeloittetax@deloitte.com, + 32 2 600 60 00

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