

Corporate tax alert

News you can count on



30 April 2013

Final agreement on tax measures in Budget 2013 Control Plan

On Friday 26 April 2013, the Council of Ministers reached a final agreement on the details of the tax measures in the Budget 2013 Control Plan.

They can be summarised as follows:

Liquidation tax

- **Final regime** : a 25% liquidation withholding tax as of 1 October 2014;
- **Transitional regime**: taxed reserves can be distributed at the rate of 10%, (1) provided these reserves have been approved by the shareholders' meeting on 31 March 2013 at the latest, (2) provided and to the extent that the amount received is immediately incorporated into paid-in capital, and (3) provided this incorporation occurs during the last financial year closing before 1 October 2014 (so before 1 January 2014 for calendar year-based financial years).

In case of a subsequent capital decrease, the capital is deemed to originate first from the capital contributed under this transitional regime. The consequences will depend upon whether or not the company qualifies as an SME under Article 15 of the Companies Code.

For *large enterprises* the 10% rate will become the final withholding tax 9 years after the last capital contribution under the transitional regime. If a capital decrease occurs within 8 years, additional withholding tax will be due at the rate of 15% (first 4 years following contribution), 10% (5th and 6th year following contribution) or 5% (7th and 8th year following contribution).

For *SME's* the 9-year period is reduced to 5 years. In case of capital decrease within 4 years, additional withholding tax is due at the rate of 15% (first 2 years following contribution), 10% (3rd year following contribution) or 5% (4th year following contribution).

An anti-abuse measure will be introduced "to avoid the re-injection of decreased capital in a new or existing company or to avoid an abnormal dividend policy".

SME dividend withholding tax

A reduced withholding tax rate applies to dividends on new registered shares (other than those issued further to the transitional liquidation tax regime above) if 4 conditions are satisfied: (1) the shares have been issued in exchange for a new cash contribution, (2) the contribution is made as of 1 July 2013, (3) at the time of the contribution, the company receiving the contribution qualifies as SME under Art. 15 of the Companies Code, and (4) the shareholder has maintained the shares in full ownership uninterruptedly since the capital contribution.

Companies without minimum paid-in capital are excluded from this measure, except if the new cash contribution

equals at least the minimum paid-in capital of a BVBA/SPRL.

The benefit of the reduced rate is maintained in case of transfer of the shares further to an inheritance or a gift (between spouses and in direct line), with transfer of obligations to the beneficiaries.

The applicable withholding tax rates are the following:

- 25%: dividends distributed at the time of profit allocation "until the financial year following the one during which the contribution took place";
- 20%: dividends distributed out of profit allocation of the 2nd financial year following that of the contribution;
- 15%: dividends distributed out of profit allocation as of the 3rd financial year following that of the contribution.

An anti-abuse measure will cover the replacement of old by new capital, the creation of preferred shares and a modification of the financial year. Other anti-abuse measures will be examined.

NID

As of tax year 2014, shares booked as treasury investments and eligible for DRD will be excluded from NID.

Registration duties

- Increase of duty for long-lease contracts (*erfpacht en recht van opstal/l'emphytéose et le droit de superficie*) to 2% (0.5% for not-for-profit organisations): applicable to authentic deeds executed as of 1 July 2013;
- Increase of fixed duty to EUR 50: applicable to deeds presented for registration as of 1 July 2013.

Excise duties

- Excise duties on cigarettes: increase, as of 1 July 2013, of "ad valorem" duty by 0.10% and of specific duty by EUR 0.10 per 1,000 cigarettes;
- Excise duties on rolling tobacco: increase of specific duty, as of 1 July 2013, by EUR 0.50 per kg;

Elaboration of "anti-forestalling" mechanism, in cooperation with tobacco industry and Luxembourg.

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

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

Related links

[Deloitte Tax News & Publications](#)

[Deloitte Academy](#)

[Dbriefs Webcasts](#)

Follow the latest Tax news on



Berkenlaan 8b
1831 Diegem
Belgium

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

[Home](#) | [RSS](#) | [Add Deloitte as safe sender](#)