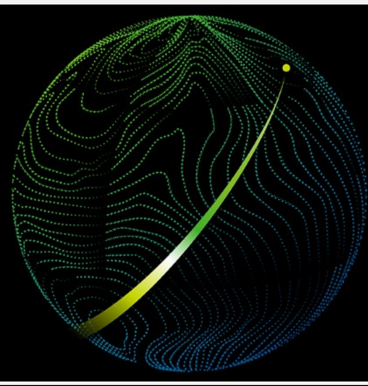
Deloitte Belgium | Deloitte Tax | 21 October 2022



Tax Alert

General tax reform

Finance Minister prepares first set of tax measures as part of the "broader tax reform"

The Finance Minister has prepared a first set of measures as part of the "broader tax reform". He was mandated to do so following the Government agreement on the Federal Budget 2023/2024.

The plan would be to discuss these measures within the Government in the course of November/December 2022. The aim would be to strengthen the purchasing power of consumers and increase the employment rate. The implementation of the phase 1 measures would be spread over a three-year period. The phase 2 measures of the "broader tax reform" would be prepared by September 2023.

Below you will find a summary of the most eye-catching individual tax, business tax and indirect tax measures. It is important to keep in mind that - today - there is no formal political agreement on these measures. We will of course keep you informed of new developments in this respect.

Individual tax measures

Harmonisation of tax and social security treatment of benefits in kind

The tax treatment of benefits in kind would be aligned with their social security treatment. However, said alignment would not apply as far as benefits in kind related to company cars are concerned.

In addition, for new company cars with fuel or charge cards, the existing system of the increased disallowed expense of 40% would be replaced by a benefit in kind for private use. For existing company cars, however, the current system would be maintained for another five years.

Stock option plans, carried interest and management incentive schemes

The tax regime applicable to stock option plans would reportedly be reformed and restricted along the following lines:

- The scope of application would be limited to shares of the company-employer or a parent company thereof;
- The rule that currently allows the employer to bear the tax charge in the event of non-exercise of the option would be amended; and
- The scope of application would be restricted to non-transferable and non-redeemable options.

In addition, a new tax regime would reportedly be developed for employees to participate in a financially favourable way in the equity of their employer. Said new tax regime would entail that the tax would only be payable upon realisation (not in advance) and only in case of effective capital gain.

Finally, income obtained further to a carried interest scheme or another management incentive scheme would reportedly be qualified, at least in part, as taxable professional income in the hands of the person who is directly or indirectly professionally active in the entity to which the scheme applies. In particular, said income would be taxable to the extent that it exceeds the amount that a non-involved (passive) investor would have received.

80% rule second pillar

The tax deductibility of premium payments in the context of the second pension pillar would be further restricted.

The so-called 80% rule would remain intact, but on top of that the premiums would only be deductible to the extent that they do not exceed 10% of the periodic gross annual remuneration paid during the year to which the premium payments relate.

The portion of the premium payments in excess of this 10% would be treated as a benefit in kind at the level of the beneficiary.

Abolition of various individual tax benefits

A number of individual tax benefits would be eliminated, with a view to simplifying the individual income tax return:

Following benefits would – inter alia - be in scope:

- Exemption private PC;
- Exemption additional staff, internship bonus and additional staff.
- Lump sum deduction for long trips;
- Tax credit own resources;
- Bonification for advance payments;
- Tax reduction for the purchase of electric vehicles;
- Tax reduction for domestic servants;
- Tax reduction for shares in development funds;
- Tax reduction for the acquisition of employer shares;
- Tax reduction for investment in growth companies (tax shelter start-up and scale-up);
- Tax reduction for premiums in respect of a legal assistance insurance;
- Tax reduction for capital losses on privak/pricaf investments;
- Exemption of innovation premiums;

- Third pillar related tax benefits: long-term savings (life insurance premiums) and increased ceiling for pension savings.

Partial wage tax exemption regimes

The expenditure related to the various partial wage tax exemption regimes would be frozen, i.e. they would be kept at the same level in 2023, 2024 and 2025 as in 2022.

Neutrality of cohabitation

A number of family related tax benefits would be abolished or aligned, with a view to achieve greater tax neutrality across various forms of cohabitation.

Some examples:

- The marriage quotient would be abolished over a period of 10 years;
- The taxation and deduction of alimony payments would be extinguished over a period of 10 years;
- The supplements to the tax exempt sum for single parents and parents not living together would be aligned.

Tax-free sum

The tax-free sum (EUR 9,270 for tax year 2023) would be raised to the level of the living wage for a single person (EUR 13,660 for tax year 2023. A number of specific technical measures would be taken to avoid unintended effects. For instance, the ordinary tax reduction for replacement income would be phased out accordingly, and the special scale for calculating the tax on the tax-free sum would be abolished.

The wage tax scales would be adjusted accordingly as of April 1, 2023.

Business tax measures

Dividend taxation

The dividends received deduction (DRD) regime, which currently provides for a “deduction” of the eligible dividend income, would reportedly be transformed into a genuine “exemption”. The latter would be effectuated via an increase of the opening balance of the taxed reserves.

While the (quantitative) condition of a participation of 10% would apparently remain unchanged, the (alternative) rule that a participation of EUR 2.5m also suffices would be linked to the condition that the participation has the nature of a “financial fixed asset” within the meaning of the Royal Decree implementing the Code of Companies and Associations. A similar amendment would take place for withholding tax purposes.

Finally, the “*DBI-BEVEK / RDT-SICAV*” regime would be abolished.

Costs relating to the acquisition, holding and disposal of shares

Importantly, costs relating to the acquisition, holding and disposal of shares would allegedly become non-deductible. At this stage, no further details are available in this respect.

Indirect tax measures

VAT e-invoicing and e-reporting

Following the European Commission's position on the e-invoicing project and as part of the reduction of the VAT gap, e-reporting would be made mandatory “over time”.

Excise taxes on tobacco and new products

Following the example of other European Member States, Belgium would also introduce excise taxes on new tobacco products and e-liquids. In addition, excise taxes on tobacco products would be further increased.

As a reminder, please note that in the context of the Federal Budget 2023 agreement, the Finance Minister has also been mandated to prepare a ‘healthy tax shift’ by the beginning of 2023. The aim would be to discourage the consumption of unhealthy products and encouraging healthy products (fruit and vegetables). This is however not included in this first set of “broader tax reform” measures.

Phasing out fossil fuel subsidies

Existing subsidies to fossil fuels in the form of reduced excise or VAT rates would be further phased out in 2024.

Contacts

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

- Philippe Dedobbeleer | Global Business Tax | pdedobbeleer@deloitte.com, + 32 2 749 57 81
- Frédéricq Jacquet | Global Employer Services | frjacquet@deloitte.com, +32 2 600 65 29
- Johan Van Der Paal | Indirect Tax | jvanderpaal@deloitte.com, + 32 2 600 66 39

For general inquiries, please contact:
bedeloittetax@deloitte.com, + 32 2 600 60 00

Be sure to visit us at our website: Deloitte Tax

Stay tuned with the latest developments:

Tax News and Insights | Deloitte Academy