



FSI tax alert Belgium

Authorities clarify meaning of “distribution fund”



Download the
Deloitte Belgium
mobile App
A wealth of
information at your
fingertips

An Android version will be available
soon

The Belgian Tax Ruling Commission issued a ruling ([Dutch](#) | [French](#)) on 1 July 2014 (nr. 2014.297) that clarifies the meaning of the term “distribution fund” in the context of the Belgian Tax on Savings Income and the Stock Exchange Tax.

The Tax on Savings Income applies to Belgian individuals that invest in a “bond fund”. Such investors are taxable on the interest component (the Belgian “taxable income per share” or “TIS”) embedded in the capital gain realised on a transfer for consideration of the shares/units in the fund, a share/unit redemption or a (partial) liquidation of the fund.

A bond fund is a fund that invests more than 25% of its assets in qualifying receivables, unless the fund’s bylaws or fund regulations provide that all income received, after deduction of remuneration, commissions and costs, is distributed annually (“distribution fund”). The scope of the exclusion of such distribution funds from the Tax on Savings Income has created some interpretation problems because neither the legislation nor administrative guidance clarifies the income that should be distributed annually.

The ruling clarifies the meaning of the term by referring to the preparatory work on the law introducing the Tax on Savings Income. The Ruling Commission confirms that a fund qualifies as a distribution fund for the purpose of the tax and is thus excluded from its scope if its bylaws or regulations provide for the annual distribution of the Belgian TIS (and not all net income generated by the fund), i.e. interest and capital gains/losses from qualifying receivables.

Since the Stock Exchange Tax contains the same wording to define a “distribution share,” the Ruling Commission accepts that the above interpretation also is applicable in the context of that tax. Hence, based on the ruling, a fund qualifying as a distribution fund for purposes of the Tax on Savings Income, also qualifies as a distribution fund for purposes of the Stock Exchange Tax.

The ruling, however, does not solve all interpretation issues regarding the notion of “distribution shares’ in the context of the Stock Exchange Tax.

Contacts

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

- Wim Eynatten, weynatten@deloitte.com, + 32 2 600 67 59
- Geneviève Colot, gcolot@deloitte.com, +32 2 600 68 39

For general inquiries, please contact:

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

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.

© 2014. For information, contact Deloitte Belgium.