



FSI tax alert Belgium

Effect of new tax on securities accounts on “Branch 23” insurance products

Legislation published in Belgium’s official gazette on 25 February 2021 and effective as from 26 February 2021 introduces a new annual tax on securities accounts. An overview of the new tax is provided in our previous [alert](#) dated 26 January 2021 and this alert provides a more detailed commentary on the effect of the tax on “Branch 23” insurance products.

Introduction

The new tax takes the form of a 0.15% annual tax on securities accounts where the average value of the account exceeds EUR 1 million. The tax is payable by the “account holder.”

A Branch 23 insurance product is one that involves payment of an insurance premium by an insured person to an insurance company (“insurer”) that in turn invests the premium in investment funds (by means of securities accounts) according to the provisions of the insurance contract. As such, the insurer qualifies as the account holder of the securities accounts according to the law. However, the insured person is deemed to qualify as the “indirect” account holder of the securities accounts and is assimilated to the insurer as the “direct” account holder. Accordingly, Branch 23 insurance products have been included within the scope of the new tax on securities accounts, with some unanticipated and potentially adverse consequences.

Consequences

Small investors with limited investments in Branch 23 funds may be directly affected

The law states that the assessment of whether the EUR 1 million threshold is exceeded should occur at the level of the securities accounts and not at the

level of the insurance contracts. Given that insurers generally pool insurance premiums through these securities accounts, the threshold may easily be exceeded, resulting in an obligation for insurers to pay the tax on securities accounts.

Insurers may be expected to recharge the tax on securities accounts to their customers with the result that small investors, having invested less than EUR 1 million at the contract level, are indirectly subject to the tax.

Foreign Branch 23 insurance products remain out-of-scope

Only Belgian insurers that are the direct holders of securities accounts are subject to the tax on securities accounts; foreign insurers fall within the scope of the tax only if they hold securities accounts via a Belgian intermediary.

Belgian insurance companies made representations to the Minister of Finance that this distorts competition but were unable to convince the minister to amend the law as finally approved.

Implications for pension savings

In addition to the use of Branch 23 insurance products for investment purposes, this type of insurance product is also often used to manage second pillar (occupational) pension plans and third pillar pension savings plans.

The explanatory memorandum providing additional clarification on the application of the new tax confirms that securities accounts/Branch 23 insurance products held in the framework of the first and second pillar are not within the scope of the tax on securities accounts.

For other types of life insurance, i.e., third and fourth pillar, the tax on securities accounts would normally apply where the insurance is managed using Branch 23 products.

How insurers will manage the withholding, reporting, and payment of the tax on securities accounts remains to be seen in practice.

Conclusion

Insurers need to take the necessary actions to ensure compliance with the correct withholding and reporting of the tax on securities accounts, resulting in significant additional complexity in the management of Branch 23 insurance products. Insurers additionally need to ensure that customers are made aware of any potential effects of the tax.

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