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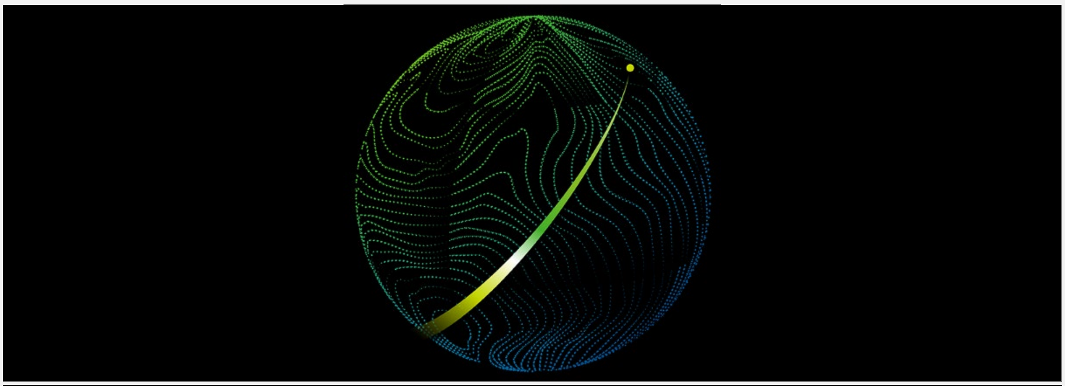

Tax Alert

Federal Budget 2023 | Belgium

Federal Budget 2023 | Overview of most relevant tax measures

On 11 October 2022, the Belgian government reached an agreement on the Belgian federal budget for 2023 and 2024. A non-exhaustive overview of the most important tax and social security measures is provided below. Please note that many aspects and details of the relevant measures are still unclear to date.

Direct taxation

Temporary “Belgian minimum tax”

In anticipation of the introduction of the global minimum tax of Pillar Two (which is expected to enter into effect on 1 January 2024), the government has decided to amend the current “basket limitation” rule, so that the relevant set of tax attributes would only be deductible from taxable profits up to 40% instead of 70% (as is currently the case) over the threshold of EUR 1m.

Said amendment would apply as from tax year 2024 (linked to a taxable period starting at the earliest on 1 January 2023). It is expected that measures will be taken to address changes to the closing date of the annual accounts. The “Belgian minimum tax” is intended to be temporary, in the sense that it would be abolished once the Pillar Two rules enter into force in Belgium.

Notional interest deduction

The notional interest deduction (“NID”) regime would be abolished. Timing-wise, the NID would no longer be available as from financial years closing after 30 December 2022. Again, it is expected that measures will be taken to tackle changes made to the closing date of the annual accounts.

At this stage it is unclear whether the regime would be abolished for large companies only or also for SMEs.

Non-deductibility of financial sector levies

The annual taxes levied on credit institutions, insurance undertakings and undertakings for collective investment which are due after 1 January 2023 would be subject to an 80% deductibility limitation for corporate income tax purposes (incl. non-residents).

Foreign tax credit for royalties

The current lump-sum regime would be transformed into a credit for actual (withholding) taxes paid abroad.

Authors' rights

The tax (and social security) regime applicable to authors' rights income would be reformed as from 1 January 2023, with transitional rules that would apply during a two-year period.

Whilst only the broad principles of the reform have been agreed upon, the reform would lead to (i) a restriction of the scope of application of the regime to align it with historic legislative intent and (ii) a threshold/cap above which the beneficial regime would no longer apply.

Reduction of tax burden on labour

The government also agreed to bring forward a tax reform which is intended to reduce the tax burden on labour. In that respect, the Finance Minister is asked to prepare an ambitious project for a first phase of the tax reform, the implementation of which would (still) start in the current legislative term.

At this stage, no specific details are yet available, although it is expected that the Finance Minister will move along the lines set out in his Blueprint for a broad tax reform, which was published in July 2022 (Dutch | French).

Tax reduction for long-term savings

The tax reduction for "long-term savings", which concerns repayments of mortgage loans taken out to build, acquire or renovate a home in the EEA (other than the own dwelling), would be abolished as far as it concerns loans taken out after 1 January 2024.

Energy measures

Temporary excess profits tax

A revenue cap will be introduced for companies that produce electricity using technologies with lower marginal costs. Said revenue cap is based on an EU Regulation which was recently adopted and published in the EU Official Journal, and which provides that revenues in excess of EUR 180 per megawatt-hour would be subject to an "excess profits tax" for the period between 1 December 2022 and 30 June 2023.

However, the Belgian government has reportedly decided to modify this "excess profits tax" in two ways. Firstly, the revenue cap of EUR 180 per megawatt-hour would apply retroactively from 1 January 2022 until 30 November 2022. Secondly, from 1 December 2022 until 30 June 2023 (with possible extension), the revenue cap would be reduced to EUR 130 per megawatt-hour (subject to certain increases for certain technologies).

Temporary solidarity contribution for fossil fuel companies

A solidarity contribution for fossil fuel companies would be imposed, in line with the aforementioned EU Regulation.

Indirect taxes and excise duties on gas and electricity

The 6% VAT rate on natural gas and electricity on residential contracts will become a permanent measure. Once energy prices will return to lower levels, an increase of the excise duties on these products will be implemented through a more profound reform, supporting the energy transition, and considering the European developments in respect of the Revised Energy Taxation Directive.

Social (security) contributions

Employers' social security contributions and indexation

To reduce the economic burden associated with the significant increase of the wage cost due to indexation, a (definitive) reduction of 7.07% of net employers' social security contributions on the increase of wages due to indexation will apply for Q1 and Q2 of 2023. In addition, for Q3 and Q4 of 2023, employers would be able to obtain a payment deferral until 2025 for this part of the contributions.

This measure would be subject to similar restrictions as the ones imposed for COVID 19-related aid measures, namely that it is not available to companies which hold a participation in, or have made qualifying payments to, a series of "tax havens".

Indexation of company contribution

The company contribution ("*vennootschapsbijdrage / cotisation à charge des sociétés*") would be indexed as from 2023 (not retroactively).

What is next?

The measures agreed upon by the Belgian Federal Government will have to be transformed into (pre-) draft legislation, be adopted by Parliament, and be published in the State Gazette.

Contacts

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