Belgium | Deloitte Tax | 23 December 2016

Global Employer Services
Individual tax

Budget 2017 – Program Law adopted

The 2017 Program law has been adopted by the Parliament on 22 December 2016.

The provision of a company car used for private purposes by employees is made more expensive for employers. This is especially the case when fuel costs are (partly or entirely) borne by the employer in combination with the company car (typically through a fuel card or through reimbursement of fuel costs).

Fuel costs

The Program law stipulates that employers covering fuel costs related to the company car must report in their corporate tax return a separate disallowed expense for their company car costs, for an amount equal to 40% of the lump sum benefit in kind related to the company car (instead of 17% as was previously the case).

The 17% rate will only remain applicable for company cars for which the employer does not cover private fuel costs.

Given this increased disallowed expense, employers may want to re-examine their company car policy to determine whether, and to what extent, they aim to keep covering fuel costs related to company cars.

Beneficiary’s personal contribution

Until the end of 2016, the disallowed expenses should be calculated taking into account the beneficiary’s deductible personal contribution. Hence, the employee’s personal contribution made it possible to cancel out the employer’s tax burden.

It is now foreseen that from 1 January 2017, the worker's personal contribution no longer reduces the lump sum value of the benefit on which the employer's disallowed expense (17% or 40%) is calculated. In other words, the disallowed expenses will always be equal to 17% or 40%, without any possibility to deduct the beneficiary’s personal contribution.

These changes reduce the effectiveness of the tax models that some employers have implemented following the extensive modification company cars tax system back in 2012, which consisted of combining the provision of a fuel card with a required personal contribution equaling the fuel costs. Such model is no longer effective and becomes even more expensive for the employer.

What does it mean in practice?

For example, an employer provides a company car free of charge, jointly with a fuel card, with a taxable benefit in kind amounting to EUR 1,260 per year.

For income year 2016 (tax year 2017), the disallowed expense for the employer equals 17% of the taxable benefit, i.e. EUR 214.20, giving a corporate tax charge amounting to EUR 72.81 (assuming the standard corporate tax rate of 33.99%).

For income year 2017 (tax year 2018), the employer’s disallowed expense equals 40% of the taxable benefit (since the company car is combined with a fuel card). This gives an amount of EUR 504.00 (instead of EUR 214.20), resulting in a corporate tax charge amounting to EUR 171.31.

Therefore, the outcome of the new rule is a tax increase of 235% for the employer.

The tax increase is even bigger if the beneficiary’s personal contribution comes into play. Assuming a monthly contribution of EUR 60.00 (i.e. EUR 720.00/year), the tax increase amounts to 549% as shown in the table below:

<table>
<tr><th colspan="2"></th><th>IY2016</th><th>IY2017</th></tr>
<tr><td colspan="2">Lump sum taxable benefit</td><td colspan="2">EUR 1,260</td></tr>
<tr><td colspan="2">Personal contribution</td><td colspan="2">EUR 720</td></tr>
<tr><td colspan="2">Taxable benefit in kind</td><td>EUR 540</td><td>EUR 1.260</td></tr>
<tr><td rowspan="2">Disallowed expense</td><td>without fuel card</td><td rowspan="2">EUR 92</td><td>EUR 214</td></tr>
<tr><td>with fuel card</td><td>EUR 504</td></tr>
</table>

Entry into force

The new regime enters into force and applies as of 1 January 2017.

According to explanatory memorandum, the new rules apply to all taxable benefits (whether new or already existing) granted as of that date.

What's next?

The changes regarding the fuel card and calculation of disallowed expenses at employer level should be regarded as a first step towards a "mobility budget", which was announced by the Government last autumn, and re-confirmed in the 2017 Program law parliamentary documents.

The next phase is expected towards April 2017, although it is not yet known when the draft law containing the mobility budget will be filed with Parliament.

According to the Government, the mobility budget will have to be budget-neutral for all parties (State, Employers and Employees).

The idea is that employees may opt for a cash mobility budget instead of a company car. There is little information available at this time and updates will be provided in due course.

Other measures

In addition to the above changes, the Program law includes the following measures:

Withholding tax increase

The standard withholding tax rate levied on interest, dividends and royalties will be increased from 27% to 30% as of 1 January 2017.

Simultaneously, the applicable rate on the distribution of so called "new liquidation reserves" (i.e. new reserves built up since 1 January 2017) within the first 5 years will be increased up to 20%. The "old liquidation reserves" can still be distributed at a 17% rate.

Distribution after the first 5 years will still be possible at a 5% rate, regardless of whether it concerns "old" or "new" liquidation reserves.

Speculation tax abolished

The speculation tax, which entered into force as of 1 January 2016, will be abolished for capital gains realised as of 1 January 2017.

Stock exchange tax

The applicable scope of the tax on stock exchange transactions will be expanded in two ways:

- The tax will become applicable to transactions ordered by a resident through a foreign intermediary;
- The maximum amounts of the tax will be doubled (EUR 650 to EUR 1,300; EUR 800 to EUR 1,600 and EUR 2,000 to EUR 4,000).

Contacts

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