



R&D tax alert

Belgium

European Commission's favourable decision on wage withholding tax partial exemption for Young Innovative Companies

A wealth of tax information within your fingers' reach
Discover Deloitte's apps



Belgium app



Global tax app

On Friday 23 January 2014, the European Commission issued a positive decision regarding the compatibility of the application of the wage withholding tax partial exemption for Research & Development by Young Innovative Companies ("YICs") with the internal market. The European Commission's decision has not yet been published but it is understood that this positive decision covers the partial exemption's application by YICs up to 30 June 2014.

Late 2011, the European Commission started a state aid investigation regarding the partial exemption of wage withholding tax for Research & Development with a special focus on the application by YICs. Under the regime applicable for YICs, this partial exemption applies to all scientific personnel employed in R&D activities including employees without a qualifying degree (e.g. employees with a bachelor degree).

Under current Belgian tax law, a Young Innovative Company is defined as:

- A small company as defined in Article 15 of the Belgian Company Code;
- Existing for less than 10 years before 1 January in the year of application of the partial exemption on wage withholding tax;
- Not established in the context of a merger, restructuring, expansion of an existing activity or the acquisition of such activity; and,
- At least 15% of the total costs of the preceding taxable period must have been used for Research and Development.

As the YIC regime (without diploma requirement) only applies to Young Innovative Companies as defined above, it is regarded as selective aid.

The European Commission tested the compatibility of the Belgian YIC regime with the internal market based on the European Framework for state aid for research and development and innovation ("R&D&I State Aid Framework"), as it applied up to 30 June 2014. This framework contains specific provisions regarding both aid for R&D projects and aid for young innovative enterprises.

Effective as of 1 July 2014, the European Commission adopted both a new R&D&I State Aid Framework and a new General Block Exemption Regulation ("GBER"). GBER outlines the conditions under which state aid may be granted without prior notification to the European Commission. The new R&D&I State Aid Framework and new GBER contain specific provisions regarding investment aid for SMEs, aid for start-ups and aid for R&D&I including innovation aid for SMEs.

The impact of the European Commission Decision regarding the YIC regime can be summarised as follows:

- Young Innovative Companies which benefited from the partial exemption of wage withholding tax with respect to employees working on eligible R&D activities without a qualifying degree should not reimburse benefits received up to 30 June 2014;
- The YIC regime's compatibility with the internal market from 1 July 2014 onwards will need to be assessed based on the new R&D&I State Aid Framework and new GBER;
- It can be expected that the Belgian Government will, going forward, conform the YIC regime to the provisions of the new R&D&I State Aid Framework and new GBER in view of ensuring compatibility of the (revised) YIC regime with the internal market. Such alignment of the YIC regime with the new R&D&I State Aid Framework and new GBER may reduce the benefits of the YIC regime for some Young Innovative Companies.

Deloitte will continue to follow-up on this and will provide updates on further developments in this respect.

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:

- Wim Eynatten, weynatten@deloitte.com, + 32 2 600 67 59
- Patrick Brauns, pbrauns@deloitte.com, +32 2 600 66 62
- Renaud Hendricé, rhendrice@deloitte.com, + 32 2 600 67 21
- Jan Pattyn, jpattyn@deloitte.com, +32 2 600 68 55

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.

© 2015. For information, contact Deloitte Belgium.