



## VAT alert Belgium

### New policy on administrative penalties in VAT matters

*The Belgian Minister of Finance recently announced ([Dutch](#) | [French](#)) new instructions for the Belgian VAT authorities, with respect to administrative penalties imposed on taxpayers when they violate formal VAT rules. This new policy will be based on the assumption that a taxpayer is in good faith, and it will apply with all penalties imposed since 1 January 2018.*

Belgian VAT legislation contains a detailed list of administrative penalties (Royal Decree n° 41 and 44) that the VAT authorities have to apply when VAT taxpayers commit infringements against Belgian VAT legislation. The severe sanctions that can apply in the field of VAT, even if no VAT loss is suffered by the tax authorities, have been an unattractive feature of the Belgian VAT system since many years, and were made even stricter in 2012.

Under the new policy, the imposed penalty will be fully waived at the taxpayer's request if the following conditions are (cumulatively) met:

- It is a first offence of its nature, in a reference period of four years
- The offence was committed in good faith. Good faith is assumed and bad faith must always be demonstrated by the VAT authorities
- The offence committed has no impact on the amount of VAT due

Examples of situations where administrative penalties can be incurred without affecting VAT due would be:

- A taxpayer fills out the wrong box of a VAT return (e.g. turnover reported in box 45 instead of box 47). A penalty of EUR 500 is applied per VAT return where this error is made
- A taxpayer fails to report reverse charge VAT for which he is the debtor on immovable works or services purchased from abroad. A penalty of 20% of the gross VAT amount could be imposed, even if that same VAT is fully deductible by the taxpayer with no financial loss incurred by the tax authorities

Going forward, for this type of error, VAT inspectors will still need to apply the penalty when assessing the taxpayers' VAT situation. However, if the conditions mentioned above are fulfilled, a request to waive the penalty can be filed by taxpayers and should then be granted by the VAT authorities.

The new policy is positive for businesses, but some caution would be appropriate as VAT penalties remain very much a reality. Firstly, the taxpayer will always need to take the initiative and formally request a penalty waiver. In practice, it is likely that tax inspectors may integrate such request in the assessment phase. Furthermore, in case of a second similar violation within a timeframe of four years (even if good faith), a penalty will no longer be waived by default. In situations where the sanction mechanism is based on a progressive scale, it is likely that an increased penalty for a second violation will apply.

In his press release, the Minister of Finance confirmed that this new policy must be applied by the VAT authorities with all penalties imposed as of 1 January 2018. Businesses that have recently encountered a VAT assessment or are under an ongoing VAT audit could benefit from filing a penalty waiver request.

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## 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:

- Johan Van der Paal, [jvanderpaal@deloitte.com](mailto:jvanderpaal@deloitte.com), +32 2 600 66 39
- Ivan Massin, [imassin@deloitte.com](mailto:imassin@deloitte.com), +32 2 600 66 52
- Danny Stas (Laga), [dstas@laga.be](mailto:dstas@laga.be), +32 2 800 70 11

For general inquiries, please contact:  
[bedeloittetax@deloitte.com](mailto:bedeloittetax@deloitte.com), + 32 2 600 60 00

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