



## VAT alert Belgium

### Belgian government approves option to tax B2B immovable letting

*As part of the 23 March 2018 budgetary control meeting, the Belgian government approved the long awaited VAT reform that will introduce the possibility for landlords to opt for the application of VAT to immovable letting agreements concluded with professional tenants. The new regulation's entry into force is planned for 1 October 2018.*

#### Background

Immovable letting is currently exempt from VAT in Belgium, apart from several specific exceptions. This VAT exemption blocks any upstream VAT incurred on the property at owner level.

As part of the 'Summer Agreement', the Belgian government announced towards the end of July 2017 that it planned to [introduce a new optional scheme](#) applying VAT to immovable letting between businesses. However, [this plan was unexpectedly abandoned](#) after government meetings in October 2017.

During the budgetary control process for 2018, the measure was eventually approved. The new regulation will only apply for *newly constructed buildings* (including severely renovated existing buildings).

#### Option for B2B immovable letting

The new regulation will allow the landlord and tenant to jointly opt to subject to VAT rental payments. This option is only possible to the extent that the leased building is used by the tenant for business operations, for which said tenant qualifies as a VAT taxable person.

Where the tenant is a non-taxable person (e.g. public body without any economic activities, private individual, etc.), the option will not be possible.

## Only for new buildings

The option to apply VAT will only be possible for newly constructed buildings from 1 October 2018. In practice, this would mean that only buildings (projects) for which no VAT has become due on construction or planning activities before 1 October 2018 would be eligible for the option. Existing properties (or buildings where work or planning has started before 1 October 2018) will be excluded. Hence, immovable letting agreements on such buildings cannot be subject to VAT under the newly created optional regime.

An option to apply VAT to immovable letting will also be possible for buildings that will be significantly renovated to a point where a property will have become a new building again, for VAT purposes, upon completion of renovation works.

## Longer VAT recapture period

If the parties opt to apply VAT to immovable letting, the VAT recapture period for the building will be extended from 15 years to 25 years. This entails that where a building would not be let with an option for VAT for a certain period during this 25 year period, a partial VAT recapture will have to be carried out.

## Short term rent

In addition to the optional regime for B2B letting, the new rules will also include a *mandatory* application of VAT for short term rent. This measure aims to reduce the complexity of *ad hoc* arrangements which are currently often put into place to set aside the general VAT exemption for immovable letting.

This mandatory application of VAT does not apply where the property is used as a dwelling or for social or cultural activities.

## Upcoming webinar

Deloitte Academy will soon organise a **webinar** to highlight the details of the new regulations.

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## Contacts

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