



Global Reward Update

Belgium – Expanded scope of the Belgian stock exchange tax

In its 2017 budget, the Belgian parliament extended the scope of the Belgian stock exchange tax to cover transactions executed by Belgian residents through non-Belgian financial intermediaries. The 2017 budget has been adopted and all steps in the legislative process have been concluded, so that this change has been in force since January 1, 2017.

Background

Previously the scope of the stock exchange tax covered transactions in stocks such as purchases and sales of shares and stock options received from employee share plans, executed through **Belgian financial intermediaries**. The Belgian residence of financial intermediaries was a key element for determining whether a transaction was in scope of the Belgian stock exchange tax.

The applicable rates on stocks was 0.27% capped at €800 per transaction.

The Belgian financial intermediaries were legally responsible for tax collection and remittance to the Belgian tax authorities. Since the tax liability was satisfied at source, individuals on whose behalf the tax was levied had no reporting/settling obligations with respect to the tax.

New Extended Scope of the Stock Exchange Tax

The new regime, applicable as of January 1, 2017, expands the scope of the tax to cover transactions executed by Belgian residents (individuals and entities) outside of Belgium. The tax now includes transactions carried out by **foreign intermediaries**, provided the instruction is directly or indirectly given by an individual with a **habitual residence in Belgium**, or by a legal entity on behalf of its registered office or permanent establishment in Belgium. As an example, a transaction executed through a US broker by a Belgian tax resident is now subject to the Belgian stock exchange tax.

The tax rate remain the same (.27%), however the maximum contribution amount has been doubled to €1,600.

This means that as from 2017, individuals themselves may need to fulfil the stock exchange tax obligations (i.e. paying the tax and filing the return). If the foreign intermediary does not withhold this tax from the impacted transaction via an appointed Belgian representative, the individual will be required to file a return (separate from their individual tax return) to pay the transaction tax.

Impact on Expatriates Benefiting from Belgian Special Tax Status

Even though expatriates benefiting from the Belgian special tax status would be qualified as habitual residents, they are considered to be non-resident taxpayers in Belgium. Therefore it is unclear whether expatriates benefiting from special tax status fall within the new scope of the stock exchange tax.

The Belgian legislation does not provide a specific definition for “habitual residence”, though it is generally accepted as the residence where the individual has settled principally. Habitual residence also depends on the factual situation in which the personal and professional circumstances indicating a durable link with the location, or the intention to create a durable link, are important.

Considering that the expatriate special tax status only applies to those who are temporarily present in Belgium and maintain the center of their interests abroad, there are arguments for expatriates to fall outside the scope of the stock exchange tax.

Clarifications from the tax authorities can be expected over the new few months.

Deloitte’s view

The new scope of the stock exchange tax is a significant additional burden on foreign intermediaries if they decide to take on the reporting and withholding obligations for the tax via

an appointed Belgian intermediary. Mechanisms will need to be put in place in order to calculate, collect and remit the taxes due to the authorities.

If foreign intermediaries do not take on the new reporting and withholding obligations then Belgian individuals will be responsible for filling a return and settling taxes due.



Clients may wish to consider a formal communication to Belgian employees to make them aware of the extended scope of the tax.

It will be important to monitor whether expatriates benefiting from the special tax status are deemed to fall within the new scope the stock exchange tax. Additional guidance is expected from the Belgian authorities, and Deloitte will stay close to the issue and provide further guidance when any updates are made available from the tax authorities.

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