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Operational Tax News

Belgian stock exchange tax update

2 January 2017

Amendments to the Belgian stock exchange tax: Impacts for the Luxembourg financial intermediaries

The 2017 state budget was adopted by the Belgian parliament on 22 December 2016. As part of the budgetary measures, the legislator expanded the scope of the Belgian stock exchange tax (*Taxe sur les operations de bourse/Beurstaks*) to cover transactions executed by Belgian residents through non-Belgian financial intermediaries. The amendment may have significant implications for Luxembourg banks and brokers that maintain securities accounts or execute financial transactions on behalf of Belgian residents. Luxembourg fund managers whose funds are distributed to Belgian residents are also affected.

Background

The stock exchange tax was first introduced in 2007 and was amended on several occasions over time. Prior to the adoption of the 2017 budget, its scope covered transactions (i.e., purchases and sales) on stocks and bonds as well as redemptions of capitalization shares of collective investment vehicles (CIVs) executed through Belgian financial intermediaries. The Belgian residence of financial intermediaries was thus a key element for determining whether a transaction was in scope of the Belgian stock exchange tax.

The applicable rates were respectively:

- 0.09% on bonds (capped at €650 per transaction)
- 0.27% on stocks (capped at €800 per transaction)
- 1.32% on redemptions of capitalization shares of CIVs (capped at €2,000 per transaction)

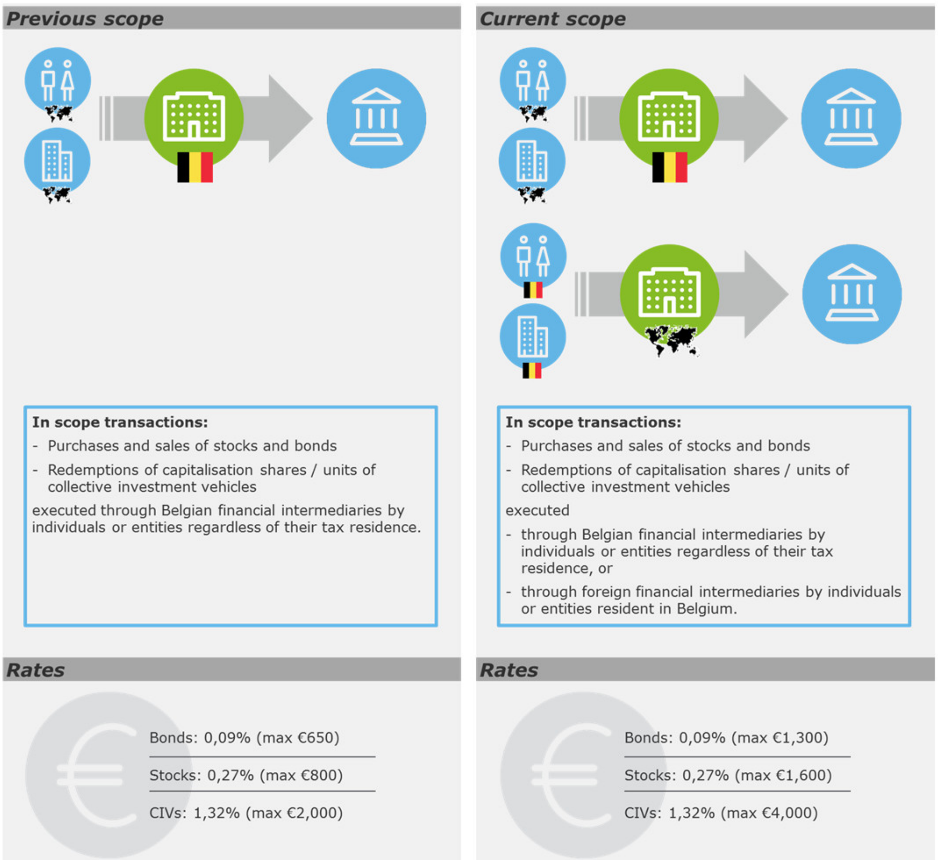
The Belgian financial intermediaries were legally responsible for tax collection (at source) and remittance to the Belgian tax authorities. Since the tax liability was satisfied at source, Belgian investors on whose behalf the tax was levied had no declarative obligations with respect to the tax.

Expanded scope

The new regime, applicable as of 1 January 2017, expands the scope to cover transactions executed by Belgian residents (individuals and entities) outside of Belgium. As an example, a transaction executed through a Luxembourg bank or broker by a Belgian tax resident is now subject to the Belgian stock exchange tax.

The tax rates remain the same, however the maximum amounts have been doubled to €1,300 for bonds, €1,600 for stocks and €4,000 for capitalization shares of CIVs.

Acknowledging that non-Belgian financial intermediaries lack sufficient nexus with Belgium to be compelled to comply with Belgian tax laws, the legislator included a specific mechanism requiring Belgian residents to self-assess and pay the correct amount of tax.



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Implications for Luxembourg financial institutions

Banks/brokers

Luxembourg banks and brokers that execute transactions on behalf of Belgian residents may opt to act as withholding agents for the purposes of the stock exchange tax. This regime is optional and should be assessed in light of operational, commercial, and risk-related implications. Luxembourg banks and brokers will therefore have two options:

1. Withholding responsibility assumed: In such a case, Luxembourg financial institutions will be responsible for calculating, collecting, and depositing the tax with the Belgian tax authorities. It is worth noting that Luxembourg financial institutions may also designate a Belgian representative that will be jointly liable to declaring and paying the tax.
2. Withholding responsibility not assumed: In the event that Luxembourg financial institutions decide not to act as withholding agents, it will be up to Belgian investors to spontaneously calculate, declare, and pay the tax within the prescribed timelines. Failure to do so may result in penalties or late interest payments at the level of the Belgian investors.

In any case, since many Luxembourg banks provide tax reporting services to their foreign account holders (in order to facilitate the completion of tax returns in their home country), those banks may find it useful to inform their Belgian clients about the change and start including the relevant stock exchange tax information in the reporting package sent to their Belgian clients.

It is also worth mentioning that the Belgian tax authorities will be able to control compliance with the new regime since they will receive the relevant information under the Common Reporting Standard (CRS).

Fund managers

Luxembourg-domiciled funds distributed in Belgium typically disclose Belgian tax information, including information on the Belgian stock exchange tax, in the so-called “Belgian addenda.” Consequently, the managers of those funds may consider updating the tax disclosures to reflect the new regime.

Other considerations

Since Belgium is one of the ten EU Member States that are planning to adopt a harmonized financial transaction tax (FTT), it remains to be seen whether and to which extent that FTT will supersede the stock exchange tax.

If you have any queries regarding the above, please do not hesitate to contact us.

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