

Operational Tax News

Belgian stock exchange tax update

26 June 2017

Filing deadline approaching

The deadline for filing the first Belgian Stock Exchange Tax returns, colloquially known as the TOB, is fast approaching. The first tax return, covering transactions executed between 1 January 2017 and 30 April 2017, must be filed by 30 June 2017. The first tax payment should be made by 30 June 2017 as well. Thereafter, the returns (and the corresponding payments) will need to be filed on a monthly or bi-monthly basis.

Background

As part of its 2017 budgetary measures, the Belgian legislator expanded the scope of the stock exchange tax (Taxe sur les opérations de bourse/Beurstaks), colloquially known as the TOB, to cover transactions executed by Belgian residents through non-Belgian financial intermediaries. As an example, a transaction executed through a Luxembourg bank by a Belgian tax resident is now subject to the TOB.

The applicable rates are:

- 0.09 percent on bonds and similar instruments (capped at €1,300)
- 0.27 percent on stocks and similar instruments (capped at €1,600)
- 1.32 percent on certain investment funds (capped at €4,000)

Luxembourg financial institutions may opt to act as withholding agents for the purposes of the TOB. By doing so, they become responsible for the correct application of the TOB rules. It is worth noting that this regime is optional and should be assessed in light of operational, commercial, and risk-related implications.

Financial institutions that consider it undesirable to act as withholding agents for the purposes of the TOB may still want to assist their Belgian resident clients with their tax compliance obligations by providing the relevant transactional information, including the amount of TOB that such clients should declare and pay.

In summary, Luxembourg financial institutions have three options:

1. **Do nothing**. Belgian-resident clients have to spontaneously self-assess, pay, and declare the TOB within the prescribed timelines. Failure to do so may result in penalties or late interest at the level of the client.
2. **Withholding option**: Luxembourg financial institutions are responsible for calculating, collecting, and depositing the tax with the Belgian tax authorities. Failure to do so may result in penalties or late interest at the level of the Luxembourg financial institution. 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.
3. **Reporting option**: Since many Luxembourg banks provide tax reporting services to their foreign account holders (in order to facilitate the completion of their tax returns), those banks may find it useful to include the relevant TOB information in the reporting packages sent to their Belgian clients.

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

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