

Program law implementing various tax measures published

The program law enacting several new tax measures has been published today. The most important changes are: (i) an increase of the withholding tax rate from 27 to 30%, (ii) the extension of the scope of the stock exchange tax, (iii) the repeal of the so-called "speculation tax" and (iv) some other new tax measures. All changes will apply as from 1 January 2017.

What's new for 2017

Withholding tax rate increase

The standard withholding tax rate increases from 27% to 30% for interest, dividends and royalties paid or attributed as from 1 January 2017.

Extension of the scope of the stock exchange tax

The maximum cap per transaction of the stock exchange tax is doubled. The applicable caps are now: EUR 4,000 (for capitalisation shares issues by investment companies), EUR 1,300 (for distribution shares issued by investment companies and most debt securities), or EUR 1,600 (for equity securities).

In addition, the scope of the tax is extended and now also covers transactions carried out by Belgian investors through a foreign professional intermediary. The previous provision, only applicable to transactions executed in Belgium, permitted Belgian residents to execute tax-free transactions abroad. This change may have an important impact for non-Belgian investment banks who are active on the Belgian capital markets.

The program law also provides the possibility for non-Belgian intermediaries to appoint a representative in Belgium who will be responsible for the payment of the stock exchange tax.

The so-called "speculation tax" is repealed

Under the "speculation tax", Belgian individuals were taxed at a rate of 33% on capital gains realised upon disposal of certain listed financial instruments (if disposed of within six months after their acquisition).

This tax is abolished as from 1 January 2017, which means that no speculation tax will be due for any capital gains realised after that date.

Other new tax measures applicable as from 1 January 2017

The program law introduces some other new tax measures.

An important change relates to the tax treatment of so-called "internal capital gains" realised by private individuals. As from 1 January 2017, a contribution in kind of shares held by a private individual will in certain cases no longer give rise to a step-up of the fiscal capital in the holding

Key take-aways

- Standard withholding tax rate increases to 30%
- Scope of the stock exchange tax is extended, and may now also apply to non-Belgian investment banks active on the Belgian capital markets
- Speculation tax is abolished
- Internal capital gains tax rules for private individuals strengthened
- More to come in 2017

company. In practice, this means that the gain realised on the contributed shares will be treated as a taxed reserve, which would upon a subsequent distribution or liquidation be taxed at a rate of 30%.

The program law also introduces a specific recovery procedure for the tax advantages previously granted in the context of excess profit rulings. This recovery from the companies who have benefitted from that regime is mandatory for the Belgian State following the EU Commission decision that Belgium "excess profit

rulings" are illegal under EU state aid rules.

Finally, the deductibility rules of expenses relating to company cars are further strengthened, and the reduced VAT rate of 12% for social housing is extended to social real estate companies and to private developers.

What's next?

Several important tax changes are still being discussed at government level, and some of these may be implemented further down in 2017. The most important possible changes to note are (i) a gradual reduction of the corporate income tax rate, (ii) together with an broadening of the taxable base (through a limitation of interest deductibility, restrictions on the use of tax losses carried forward, and maybe a repeal of the notional interest deduction, etc.), (iii) a repeal of the so-called "fairness tax" and (iv) the introduction of a general capital gains taxation on privately held shares.

Contacts

Alexandre Ooms

Partner

T: +32 2533 5073

E: alexandre.ooms

@cliffordchance.com

Pierre-Olivier van Caubergh

Senior Associate

T: +32 2533 5910

E: pierre-olivier.vancaubergh

@cliffordchance.com

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