



## NEWSLETTER

From: TAX LAW DEPARTMENT

Subject: Summer Agreement Michel I:  
Reform of Belgian corporate tax

Date: August 2017

### 1. FIRST PHASE: 2018

#### 1.1 Reduction of the corporate tax rate

The basic corporate tax rate of 33% will be reduced to 29% in 2018.

The additional crisis contribution (ACC) will also be reduced: the ACC will be reduced from 3% to 2% in 2018 and will disappear completely in 2020.

Following the above, the basic corporate tax rate will be reduced from 33.99% to 29.58% in 2018 and to 25% in 2020.

Furthermore, the reduced corporate tax rate will, for the first 100.000 EUR, be reduced to 20% in 2018.

Combined with the reduction of the ACC, the reduced corporate tax rate will be 20,40% in 2018 and 20% in 2020. The reduced corporate tax rate only applies to small companies within the meaning of article 15 of the Belgian Company Code and that meet the requirements set out by article 2015, third paragraph, 1 °, 2 °, 4 ° and 6 ° of the Belgian Income Tax Code.

Finally, the tax of 0,4% on capital gains for large companies will be abolished.

#### 1.2 Temporary increase of the ordinary investment deduction

On investments made as from 1 January 2018, the standard investment deduction rate will increase from 8% to 20%.

However, this increase is only a temporary (2 years) measure. It will also apply to one person enterprises and to free professions.

### **1.3 Compensatory measures**

#### **1.3.1 Change calculation basis notional interest deduction**

As from 2018, the notional interest deduction will no longer be allocated based on the total amount of equity, but only on the basis of the growth in equity, the so-called "*incremental*" equity.

In addition, the NID on every increase in equity will be spread over 5 years. So, in case of a capital increase of 100, the company will no longer at once receive the notional deduction on 100, but on 20 for 5 years.

#### **1.3.2 Investment reserve**

The investment reserve will be abolished.

#### **1.3.3 Minimum profit tax**

As from 2018, the federal government foresees a minimum profit tax.

Small and large companies that generate more than 1.000.000 EUR of taxable profit will no longer be able to, without any limit, use all their tax deductions in order to eliminate their taxable base.

Subsequent deductions are targeted:

- (1) losses carried forward
- (2) definitively taxed income ("*DBI*") carried forward
- (3) deductions for innovation revenue carried forward
- (4) notional interest deduction carried forward and the new "*incremental*" notional interest deduction.

These deductions will be limited each year.

#### **1.3.4 Minimum remuneration and sanctions**

The minimum remuneration to be granted to directors in order to be eligible to benefit from the reduced corporate tax rate (article 215, third paragraph, 4<sup>o</sup> Income Tax Code) will be increased from 36.000 EUR to 45.000 EUR, except for start-up companies (first four years) and when the profit is less than 45.000 EUR (in the latter case the remuneration must be equal to at least half of the profit).

Every company that does not pay a minimum remuneration of 45.000 EUR will undergo a (deductible) tax of 10% on the difference between the paid remuneration and 45.000 EUR.

### **1.3.5 Capital decrease**

The repayment of actual paid-up capital will remain untaxed (except for holding companies).

However, the free choice of determining on which components the capital decrease is charged, will be limited.

If a company reduces its paid-up capital and it also has taxed reserves (whether or not incorporated into the capital), the capital decrease can no longer be charged in full on the paid-up capital, instead a pro rata rule must be applied.

### **1.3.6 Stricter rules on the exemption of capital gains**

As from 2018, in addition to the existing requirement of taxation, capital gains on shares will only be exempt if the (2) definitively taxed income ("DBI") participation requirement (10% or 2.500.000 EUR acquisition value) is met.

### **1.3.7 No full deduction of prepaid costs**

As from 2018, prepaid costs will no longer be fully deductible in the year of prepayment. They will only be deductible for the part that relates to the year itself.

By this measure, the government intends to avoid the possibility to fully deduct "*prepaid costs*" in the year of payment.

### **1.3.8 Stricter rules on exempt provisions**

Only provisions that arise from obligations that exist on the balance sheet date will be exempt.

### **1.3.9 Fixed increase flat rate tax on non-declaration**

As from 2018, a step-by-step increase of the minimum taxable profit of 19.000 EUR to 40.000 EUR will be implemented as a sanction upon failure to submit the corporate tax return (article 182, § 2, Royal Decree on the Income Tax Code).

### **1.3.10 Interest rates**

As from 2018, the interest rate on refunds by the tax authorities will be linked to the linear government bonds ("OLO") and will be at least 2%.

As from 2018, the interest rate on late payment of taxes will always be 2% higher than the moratorium interest.

### **1.3.11 Effective tax in case of increase of the taxable base**

As from 2018, a corporate tax will always be due in case the taxable base is increased following a tax investigation.

The supplement will be included in the deduction limitation.

### **1.4 Rules applicable on one person enterprises (personal income tax) are harmonized with rules applicable on companies (corporate tax)**

As from 2018, the differences in treatment between companies and one person enterprises will further be eliminated.

The following measures are contemplated:

- Deduction of car costs: in the personal income tax for self-employed persons, instead of the current 75% limitation, car costs will be deductible based upon their CO2 emissions, such as is already the case for companies;
- The tax on capital gains on cessation of activities in the personal income tax will be reduced;
- The lump sum deduction for business expenses of employees will also be applicable to self-employed persons;
- Investment deduction: also for self-employed persons, the onetime investment deduction will rise from 8% to 20% (for two years).

## **2. SECOND PHASE**

As a second phase, the following measures/incentives are contemplated:

- The basic corporate tax rate will be further reduced from 29% to 25%. The ACC will be abolished.
- Introduction of fiscal consolidation.

However, a number of compensatory measures are also contemplated, such as:

- Limitation of the deductibility of the interest on debt;
- Debt settlement will no longer be a deductible cost;
- Clarification of the benchmark "*market interest rate*";
- Elimination of the degressive depreciation system;

- Pro-rata depreciation in the year of the investment for all companies (article 196, § 2, Income Tax Code);
- Other miscellaneous adjustments, such as supplementary and additional personnel, internships, capital gains on housing loans, capital gains on company cars or common transport.

*DISCLAIMER*

*The present overview is made based on information distributed in public channels without consultation of the final law and should not be considered as tax advice on which can be relied without further specific tax advice.*

Wish to contact our legal experts?

Kristoffel Vermeersch ([kristoffel.vermeersch@mvvp.be](mailto:kristoffel.vermeersch@mvvp.be))

Michel Raats ([michel.raats@mvvp.be](mailto:michel.raats@mvvp.be))

