The effects of Arizona on Corporate Direct & Indirect Tax

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The overall objective of the reform is to strengthen the purchasing power of working people, increasing the competitiveness of our economy and stimulate working and entrepreneurship. Through specific incentives and measures, the investment climate should improve with a focus on environmental transition and the sustainability of the economy.

To this end, the tax system should be simplified, made more transparent, user-friendly and rely on a fair contribution. Furthermore, a series of measures aim to create a better relationship between the taxpayer and tax administration aiming for more legal certainty and cooperation.

The measures that will come into effect during this legislative term will all be implemented as a general principle in 2026 although certain measures may already be implemented in 2025 and in subsequent years. The government generally intends to refrain from introducing retroactive tax regulation.

Below, we mainly include a summary of the measures affecting corporate entities. For measures affecting private investors and individuals we refer to our different overviews.

- **The dividend received deduction regime to be transformed in a real exemption but with some increased thresholds**

The current Belgian dividend received deduction on qualifying dividends is in fact a deduction of a company's taxable income basis which does not lead to the same outcome as a full exemption of income.

The deduction will be replaced by an exemption but the thresholds for the exemption will increase for non-SME's (small and medium sized companies as defined by the Belgian tax code). For non-SME, investments as of 10% will continue to qualify but investments below 10% will only qualify if they are accounted for as financial fixed assets (new condition) with an acquisition value of at least 4 million Euro (as opposed to 2.5 million Euro).

As a result of this change, the group contribution regime will be more effective for companies and groups with important dividend income. Although it is not explicitly mentioned in the government agreement, it is likely that this change would also affect the capital gain exemption on shares.

- **DBI-BEVEK/SICAV RDT**

Capital gains on DBI-BEVEK/SICAV RDT will be taxed at 5% and creditable withholding tax can only be credited if the company meets the (increased) minimum remuneration condition for the company directors.

- **Group contribution regime to be broadened**

The Belgian group contribution regime includes some strict rules to allow companies within a group to share profits and loss through a group contribution. Today, companies can only perform such group contributions when they are "directly related" for at least 90%. The agreement states that this will be extended to "indirectly" related companies.

The current regime also requires a qualifying relationship for at least 5 years to be able to benefit from a group contribution. There is no specific mention of shortening this period, but it is mentioned that new companies will no longer be excluded. This likely implies that for newly established companies such a group contribution may become available as from the first financial year. It is to be seen if this would also be the case for acquired companies and whether the government is willing to relax and change the 5 years waiting period.

The changes to the dividend received deduction regime (see above) is also expected to resolve some inefficiencies to the group contribution regime when companies receive important dividend income.

- **Exit tax on migrations**

The emigration of a company will be treated as a deemed liquidation for tax purposes. It is expected that this measure refers to the levy of a withholding tax on the deemed dividend distribution as corporate income exit tax provisions are already in place.

- **No automatic tax penalty of 10%**

The tax authorities systematically apply a tax penalty of 10% in case of a tax audit adjustment. Besides the higher tax on the adjustment, the application of this penalty also leads to a separate taxable basis for these adjustments without the possibility to set-off this tax basis against current year operational losses or carried forward tax attributes.

This approach has recently been challenged in court (see alert No 10% tax increase in case of a first mistake - Practical consequences | EY - Belgium).

The agreement announces that this automatic and systematic tax penalty should be reformed and not be applied for the first infraction in good faith.

It further states that the denial to offset current year losses should only apply in case of repeated infractions with penalties of 10% or higher. It seems to indicate that the compensation with carried forward losses would not be allowed. Note that it is however unclear on which losses (current and/or carried forward) the compensation may be allowed in case of a 10% increase.

A spontaneous change by a taxpayer of his filing position should also be possible without incurring penalties.

- **Disallowed expenses reformed**

There are several announcements related to the simplification of the disallowed expenses.

The agreement indicates that research will be done to introduce an optional but simplified approach to determine disallowed expenses.

The complex method to determine disallowed car expenses will be reviewed and simplified and the current transition rules applicable to hybrid cars will be revisited.

- The maximum deduction percentage for hybrid cars remains at 75% until the end of 2027. After that, a decrease of the percentage to 65% in 2028 and to 57.5% in 2029.
- Exception on limited deductibility for hybrid cars with emissions of a maximum of 50 grams/km. If the percentage according to the deduction formula is higher than 75%, the higher percentage may be applied until the end of 2027.
- Fuel costs of hybrid cars remain 50% deductible until the end of 2027.
- Electric consumption costs of hybrid cars receive the same deductibility as that for electric models.

- **Investment deduction regime to be simplified and improved**

A series of measures relating to the investment deduction regime is announced.

  - Investment deduction will be unlimited carried forward.
  - The percentages for the increased investment deduction for energy, mobility and environment will be harmonized to 40%.
  - Simplification of the green investment deduction, especially for investments in energy transition.
  - In the environmental list, the restriction regarding financial support from the European government for CCS-CCU investments will be removed.
  - Abolition of the regional certificate requirement for investments in R&D Investment deduction for research and development.
  - Covenant between the competent federal administration regarding R&D and the tax administration with clear criteria on how to cooperate to guarantee loyalty of the administrations and maximum assurance of legal certainty for the taxpayer.
  - Possibility of recognition as a research center for companies to provide them with certainty about a stable tax legal framework in the long term.

- **Accelerated depreciation**

For certain investments, in research and development, defense, and energy transition the possibility will be created to create an accelerated depreciation. For non-SME companies, this would be a temporary regime allowing a depreciation of 40% in the first year of acquisition while for SME's the possibility will be (re-) introduced to apply a double declining depreciation method.

- **Minimum remuneration for company directors (for application of the reduced CIT rate)**

SME's can only benefit from the lower corporate income tax rates if they comply a.o. with a minimum management remuneration. This remuneration will be increased from 45,000 to 50,000 Euro (amount will be indexed) and may only consist of up to 20% of the in benefits in kind.

- **Other selected tax measures**

The agreement includes a series of other measures relating specifically to corporate income tax:

- The legally permitted maximum contribution for meal vouchers will be increased (from € 8 to € 12). The deductibility of the employer's cost will be correspondingly increased. Other existing vouchers (eco vouchers, culture vouchers, etc.) will be phased out
- A framework for costs proper to the employer will be established as soon as possible.
- The social liability exemption will be eliminated.
- Form No. 270 MLH (rental annex) will be eliminated as soon as possible and will be replaced by a less administratively burdensome alternative, taking into account the information already available to the administration.
- The rules regarding transfer pricing documentation, particularly for SME's will simplify focus on the essentials.
- Maritime industry: exemption from withholding tax, in line with European State Aid rules, for payments in the context of a bareboat chartering (conditions linked to greening of the Belgian fleet vessels)
- Belgium aims to implement international agreements on a digital tax, which will make large digital multinationals taxable even without a physical presence in Belgium. If no agreement can be reached at European or international level, Belgium will unilaterally develop a digital tax by 2027 at the latest.
- Increase tax certainty by publishing an annual list of tax havens and clarification that the legislation is based on the existing list as of January 1 of each year (so that the countries do not vary throughout the year).

- **Global Trade**

The general objective of the new Belgian Federal Government in the field of customs is to strengthen the competitiveness of Belgian ports and logistic hubs.

Making the interactions with the customs authorities simpler, faster and more digital should contribute to this while at the same time increase compliance and revenues and decrease errors and disputes.

In making customs operations more efficient the Arizona coalition aims at streamlining the cooperation between the customs authorities and other authorities involved with import and export (incl. establishment of a central/common online platform).

In terms of legislation, Arizona commits to splitting the General Law on Customs and Excises in a Customs and an Excise law. The various legislations touching excises will be codified and the criminal and enforcement aspects of customs and excise legislation will be modernized by shifting the focus to administrative enforcement (instead of criminal enforcement).

In the field of excises, excise duties on zero drinks, tea and coffee should be abolished while the packaging levy will also be reduced for products which are on average more expensive than in our neighboring countries.

For the tobacco sector it is foreseen to increase excises duties and to include heat-not-burn products and vapes in the scope of the anti-tobacco policy.

For energy products it is foreseen to introduce excises duties on kerosene and to reduce the partial exemption from excises for professional diesel. Moreover, the fiscal support for mineral oil products will be reduced and the excise duty on electricity will be reduced to the EU minimum.

In relation to Global Trade and Sustainability measures, the Arizona coalition endorses the EU Green Deal and its objectives and calls for an effective implementation of CBAM although the mechanism should be improved/extended supporting export-oriented industries.

- **Indirect Tax**

- **Introduction of near real-time reporting**

To prevent VAT fraud, near real-time reporting will be introduced as from 2028 for supplies between VAT-taxable persons and transactions subject to the registered cash system. In this respect, cash registers and payment and invoicing software will be directly linked with the VAT authorities so that data are automatically transferred towards the authorities. As a result of this, there would be a significant reduction of the administrative burden for VAT-taxable persons by simplifying or cancelling certain VAT administrative formalities, e.g. annual client listing.

- **Extension of scope of registered cash system**

In order to create a level playing field, the so-called 'white cash register' will be expanded to the entire catering industry ('horeca' sector). This system will also be expanded to other fraud-sensitive sectors. A tolerance will be foreseen for small-scale activities to keep those outside scope.

To this extent, the threshold of EUR 25K will remain in place but the calculation methodology is revisited.

- **Re-assessment of VAT penalty policies**

The Federal Government will introduce a modern penalty system for VAT. When determining the proportional penalty, the overall circumstances must be considered, in particular that the Belgian Treasury has not suffered any financial loss as a result of the infringement.

- **Changes in relation to VAT rates**

The Federal Government foresees various changes to the scope of application of the reduced VAT rates:

  - The VAT rate for the supply and installation of heat pumps will be reduced from 21% to 6% for five years.
  - The VAT rate for the supply and installation of fossil fuel combustion boilers (gas, fuel oil, etc.) will be increased from 6% to 21% in the framework of the renovation of housing older than 10 years.
  - The VAT rate for coal will be increased from 12% to 21%.
  - The VAT rate of 6% for demolition and reconstruction will be expanded to all supplies (incl. by real estate developers), however the surface criterion will be stricter, being that the maximum surface will decrease from 200m^2 to 175m^2.
  - The Federal Government intends to create a clearer distinction between renovation (at 6%) and renovation creating a new building (at 21%) and this based on a sustainability component.

- **Improved access to VAT inspectors**

VAT-taxable persons must be able to better communicate with the respective VAT authorities. To this extent, a direct and immediate contact with the VAT inspector(s) during a VAT audit and disputes will be enabled.

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This will be done by providing clear/unique points of contact, phone codes and email addresses as well as introducing the possibility to make an appointment. There will be more transparency with respect to the publication of tax case law and reporting during tax audits will be standardized.

- Other measures
    - The Federal Government will foresee in a lump sum VAT deduction method for the mixed use of company bikes. To this extent, a circular letter will be published.
    - Also the possibility to donate trade goods while maintaining the right to deduct the input VAT will be extended by expanding the list of products that can be donated under such a regime and by introducing in certain cases more flexibility with respect to the expiry of the usual commercial sales period.
    - To diminish VAT fraud, the Federal Government is exploring the system of 'VAT lottery' as currently already applicable in other EU countries.

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