

Which changes can be expected from Arizona for your private wealth?

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The new government agreement of the Arizona coalition contains a number of proposed changes relevant to your personal tax situation. We have summarized the key measures for you on the basis of the information available to date.

- **Capital gains tax (“Solidarity Contribution”)**

A capital gains tax of 10% will apply to capital gains realized on financial assets (listed and unlisted shares but also crypto assets). Small investors with a shareholding below 20% will benefit from an exemption of up to €10.000 per year (with an annual indexation). For large shareholders with a shareholding of at least 20%, progressive rates will apply to capital gains up to €10 million. For such shareholders, it is expected that the first million of capital gains will remain exempt. Capital gains exceeding €10 million will be subject to 10% taxation.

Capital losses will be deductible but only from capital gains realized on the same category of income within the same year.

The entry into force date has not yet been disclosed but historical capital gains (built up before the entry into force date) would remain exempt. Further details regarding these grandfathering rules need to be awaited.

- **Harmonization of VVPRbis regime and liquidation reserve**

The two regimes will be harmonized resulting in a waiting period of three years before dividend distributions qualifying for the regime can be made at a combined effective tax rate of 15% (instead of 30%).

- **Minimum remuneration for directors**

Small and medium-sized enterprises can only benefit from the lower corporate income tax rate if they comply a.o. with a minimum management remuneration. This remuneration will be increased from €45.000 to €50.000 (to be indexed annually) and may only consist of up to 20% of benefits in kind.

- **Transfer of real estate rich companies**

The agreement stipulates that it will assist the regions in the fight against share deals related to real estate companies. The term 'share deal' refers to the sale of real estate rich companies which are not subject to real estate transfer taxes. The current anti-abuse rules are rarely applied. It can be expected that “look through” rules may apply going forward whereby the sale of real estate rich companies will become subject to real estate transfer taxes (as if the real estate is sold directly instead of the shares in the company holding the real estate).

- **Exit tax on relocations of companies abroad**

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 upon a relocation abroad of a Belgian company. Exit taxation at company level already exists.

- **Adjustment of the marriage quotient**

The marriage quotient ensures that the partner with no or low professional income is fictitiously assigned a portion of the professional income of the other partner for the calculation of personal income tax. The marriage quotient will be reduced by half for non-pensioners by 2029. For pensioners, a phasing-out scenario over a sufficiently long term is foreseen. For partners with a large pay gap, this can result in a higher income tax burden going forward.

- **Changes to tax credits and exemptions**

Various tax credits and exemptions will be abolished or revised. The tax deduction for donations will decrease from 45% to 30%, and the tax credit for household employees will be abolished.

- **New rules for the use of data from the Central Point of Contact ("CPC") of the National Bank of Belgium**

More information will be stored in the CPC database going forward in order to facilitate datamining. This will include financial information that has been exchanged automatically with the Belgian tax authorities (under the Common Reporting Standard ("CRS") framework). Crypto accounts will also need to be registered with the CPC.

Additionally, the CPC database will become accessible to the tax authorities in case of sufficient and accurate indications of fraud and the tax authorities are allowed to rely on the information available with the CPC.

This emphasizes the relevance of verifying the accuracy of the annual CRS reporting and to file accurate, corroborating and complete information in the annual personal income tax return.

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- **Abuse of private foundations ('Private Stichtingen' / 'Fondations Privées')**

The improper use of private foundations will be targeted. The qualifying non-profit activities will be better defined, and tax authorities will be able to dissolve foundations that are used in an abusive manner.

- **Right to rectify the income tax return**

The agreement stipulates that a spontaneous rectification by a taxpayer of his or her filed return in good faith should be possible without incurring penalties.

- **Tax investigation and assessment periods**

The standard investigation and assessment period for the tax authorities will remain three years and will become four years for so-called complex and semi-complex tax returns. In case of fraud, the period will become seven years, instead of ten years currently. It is still uncertain whether other specific limitation periods will remain in place, e.g. of ten years for legal constructions (subject to the so-called Cayman tax rules) or assessment periods of five years in specific circumstances such as in case of exchange of information from abroad.

- **No automatic application of a 10% tax increase in case of a first offense and good faith**

It is intended to foresee that a 10% tax increase will not apply automatically in case of a first offense in good faith. The question will be whether a possibility will still be foreseen for the tax authorities to apply the tax increase nevertheless on the basis of their appreciation of the file.

Note also that a legislative proposal in this regard has already been filed in Parliament on 30 January 2025.

■ New regularizations

The government agreement also announces that a new possibility will be foreseen to regularize unreported proceeds at a rate of 30% for non-statute barred amounts and 45% for statute barred amounts. Further details need to be provided still.

■ Principle of legitimate expectation

Another proposed change is the intention to embed the principle of legitimate expectations in the law, clarifying that taxpayers who have been subject to a tax audit on one item of their tax return and continue that practice, under unchanged legislation, they will not be penalized in the event of a later audit.

■ A taxpayers' charter and an "only-once"-principle

The agreement states that a new taxpayers' charter will be introduced. The purpose of this charter is to provide greater legal certainty to taxpayers and facilitate the communication with the tax authorities. To reduce the administrative burden on the taxpayer, an "only-once"-principle will also be introduced. It expectedly means that a taxpayer is not obliged to resubmit information that has already been provided to the tax authorities before.

We will closely follow up on the further updates regarding the government agreement and the implementation of the proposed changes in practice. For further questions or assistance, please do not hesitate to reach out to your trusted EY Law contact person.

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Contact



Emilie Maes
EY Belgium Tax Controversy & Transaction
Tax Partner
emilie.maes@be.ey.com