

1. 15% on dividends: when will it be introduced?

The Programme Law of 28 June 2013 introduced a reduction in the withholding tax on dividends from new shares or units (the “VVPR-bis regime”) issued after 1 July 2013, provided certain conditions are met (articles 537 and 269, Section 2 CIR).

This rate has been reduced to 20% then 15%, depending on the year of distribution or the year of profit distribution for the 2nd or 3rd financial year following that of the contribution.

To clarify this, let's consider a company whose capital was increased by the issue of new shares in October 2013 and which closes its accounts in December 2013.

If it distributes a dividend as part of the distribution of profits for the 2015 financial year, the withholding tax to be deducted will be 20% and the distribution will take place in 2016.

The dividends can only be distributed, following the deduction of withholding tax at the rate of 15%, from the time the profits for the 2016 financial year are distributed. The distribution will then take place in 2017.

2. Tax Shift - The new speculation tax

As part of the Tax Shift, with effect from 1 January 2016 the federal government has introduced a speculation tax of 33%. This tax is aimed at:

- the gains made outside a person's professional activity;
- within 6 months of the acquisition;
- of shares, options, warrants and share certificates quoted on the stock exchange;
- acquired in return for payment.

The tax will only apply to acquisitions after 1 January 2016.

Investors who have bought the same share in several stages will have to use the LIFO (Last In First Out) method to calculate the 6-month holding period. According to this method, it is always the last product bought which must be taken into account for the purposes of any speculation tax. Moreover, in the case of investments made outside the euro zone, the speculation tax will be based on the gain made in the local currency.

The speculation tax will be collected by the Belgian financial intermediaries. It will be a definitive tax and private individuals will not be required to disclose the gain made in their tax returns. Private investors who make gains via an account abroad will therefore have to declare those gains.

The federal government recently suggested that losses may be deductible, but only when they relate to one and the same share.

So far, there has been no Royal Decree clarifying the details of this measure and the banks are already saying they won't be able to apply the rule by the deadline set... So is a deferment on the cards?

3. Tax Shift - Hike in the withholding tax on dividends

In another Tax Shift-related move, the federal government has also decided to raise the rate of withholding tax on dividends from 25% to 27%.

This increase does not affect the VVPR-bis shares mentioned above.

4. Allowance for investments (and notional interest)

The Tax Shift also provides for an indefinite extension of the temporary regime that applied to ordinary investments by SMEs in 2014 and 2015. The percentage is to be increased from 4% to 8%.

On the other hand, the Programme Law of 15 August 2015 also introduces an increased investment allowance (13.5%) for SMEs that make what are referred to as “digital investments”.

Remember: these investment allowances cannot be combined with the notional interest allowance. As the rate of the notional interest allowance was once again reduced in 2015 (2.13% for SMEs - 1.63% for large corporations), these new investment allowances could now prove more advantageous in some cases.

Why make it simple when you could make it complicated?

5. AirBnB, Uber, BlaBlaCar, ... : when and how do you declare income from these new “occupations”?

Taxpayers who receive income from these new “occupations” often overlook the fact that this income may be taxable.

As long as the activity remains the exception, it doesn't present a problem. But if it becomes a business in the true sense, even an occasional one, the income generated from it must be declared.

Declaring this income as “other income” (pursuant to Article 90(1) Income Tax Code 1992 [CIR92] and taxable at the rate of 33%) could prove to be an “acceptable” option for the following reasons.

1. Other income is declared net - i.e. less the taxpayer's proven expenditure in order to preserve that income. This can easily all but wipe out the “other income”;
2. Declaring “other” income, regardless of the amount (provided it can be proved) denies the tax authorities the option of classing the income as professional and applying the minimum amount of EUR 19,000¹;
3. The burden of proof is thus reversed; rather than the onus falling on the taxpayer to prove the amounts declared, the tax authorities must prove that they have been undervalued.

¹ In application of articles 342, §3 CIR92 and 182 of the Royal Decree implementing the Income Tax Code of 1992 [ARCIR/92].

It should be noted that this advice applies to all (non-professional) activities undertaken by a taxpayer.

6. Housing bonus: how it has changed, region by region, in the wake of the 6th government reform

The Flemish Region has decided to keep the housing bonus but to reduce it by around 30%. For contracts signed on or after 01.01.2015, the reduction will be just EUR 1,520 (+ EUR 760 for the first 10 years).

The Brussels-Capital Region, meanwhile, has decided to abolish the housing bonus from 2017. This abolition will be offset by an increase in the allowance for registration fees, from EUR 60,000 to EUR 175,000.

The Walloon Region is also abolishing the housing bonus, but will be replacing it with the “housing cheque”. Only taxpayers with an income of less than EUR 81,000 (per taxpayer) will be eligible. It will comprise a fixed amount of EUR 125 per child (shared between both parents) and a variable amount of no more than EUR 1,520 if the income is not more than EUR 21,000. If the income exceeds this amount, the excess will be multiplied by 1.275%. The total will then be deducted from the aforementioned “reference amount”.

Proof, if any were needed, of the beauty of regionalisation and the state of limbo this creates (but this is merely our humble opinion...).

7. VAT: Tax on the pay of legal entities acting as directors/managers

According to an announcement published by the FPS Finance, the imposition of VAT on the pay of legal entities acting as company directors/managers, which was due to be introduced on 1 January 2016 (based on decision no. E.T. 180/2 of 12 December 2014) has been postponed until 1 April 2016.

8. VAT: requirement to pay delay interest in the case of an overdue refund of tax credit

A recent ruling by the ECJ² confirms once again the fact that the Member States are obliged to pay delay interest on refunds of excess VAT if this is not refunded within a reasonable period.

A refund period will be considered “reasonable” in Belgium if it does not exceed three months (if the tax credit is reimbursed quarterly) or two months for taxpayers who can request a monthly refund of their tax credit. The interest starts to accrue from the day on which the refund of excess VAT would normally be due.

² ECJ, 21 October 2015, case C-120/15, Kozovber ruling.