



Tax alerts

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Personal income tax and social security measures in Budget 2010

The Belgian government has issued and proposed an array of end-of-year measures relating to personal income taxation and social security.

The most important personal income taxation measures are summarized below (for the social security measures, click [here](#) to read the newsletter published by the law firm Laga). It should be noted that the parliamentary process has not been completed for the measures, except the one relating to a benefit in kind for electricity and heating, so it is possible (although not likely) that changes may be made.

Reduction in lump sum professional expenses for company directors

Directors who do not deduct actual professional expenses are entitled to a lump sum deduction, the amount of which relates to the director's gross salary. The amount of the lump sum deductible expenses will be reduced from 5% to 3% of gross salary, with a maximum deduction of EUR 1,555.50 (non-indexed amount).

Deloitte's View

This measure aims to reduce the double deduction of expenses (i.e. a deduction of the actual expenses by the company and a lump sum deduction at the level of the director). There are no changes to the rules when a director chooses to apply the itemized professional costs deduction.

Linking benefits in kind for company cars with CO₂-emission level

As from 1 January 2010, the valuation of the amount of the benefit in kind for company cars will depend on the CO₂-emission level of the car (rather than horsepower). The value of this benefit in kind will be determined as follows:

Kilometers driven (private use) x CO₂ emission of the car per kilometer x CO₂ coefficient

If the CO2 emission level is not available from the Car Registration Service, the CO2 emission standards will be deemed to amount to 205 grams per kilometer for gas, LPG and natural gas engines, and 195 grams per kilometer for diesel engines. The CO2 coefficients to take into account are EUR 0.00210 per CO2 gram for gas, LPG and natural gas engines, and EUR 0.00230 per CO2 gram for diesel engines. These coefficients will be subject to indexation on an annual basis (based on the consumption price index).

The minimum threshold for the distance to determine this benefit in kind remains 5,000 km and the amount cannot be lower than EUR 0.10 per kilometer.

Deloitte's View

This measure is one of various incentives aimed at impacting the choice of company cars by employers and employees. Depending on a car's emission level, the benefit in kind may be higher or lower than the benefit in kind under the current regime, which is linked to the fiscal horsepower of the automobile. Employers may want to reassess their compensation and benefit packages and reconsider the cars in their fleets, taking into account the impact for the employees (benefit in kind) and the company (cost deduction at the corporate level).

Limit on deductibility of fuel expenses to 75%

As from 1 January 2010, the tax deduction of fuel expenses incurred for professional purposes will be limited to 75%.

Deloitte's View

The 25% disallowed professional expenses for fuel is part of the "green tax" package intended to stimulate environmentally friendly behavior).

Increase in benefit in kind for electricity and heating

A royal decree was published in the Belgian Official Gazette of 10 December 2009 to increase the amounts of the lump sum taxable benefit in kind to be recognized for the free provision of electricity and heating by the employer / company to its employees / directors:

	2009	2010	2011
Electricity (directors)	EUR 590	EUR 740	EUR 820
Electricity (other):	EUR 295	EUR 370	EUR 410
Heating (directors):	EUR 1,180	EUR 1,480	EUR 1,640
Heating (other):	EUR 590	EUR 740	EUR 820

Deloitte's View

Employers and companies may want to reassess their compensation and benefits packages when including such taxable benefits in kind. Despite the substantial increase of the lump sum taxable value of the benefit, the free provision of energy remains an efficient tax optimization route considering the current price level of energy products.

Tax reductions for energy-saving investments

The scope of the existing tax reduction for energy-saving investments will be narrowed because the reduction will no longer apply for new dwellings, and the maximum (non-indexed) amount will be reduced from EUR 2,600 to EUR 2,000 (non-indexed amount), as from tax year 2012.

However, a 10-year tax reduction of EUR 300 per year will be introduced for the construction of low-energy dwellings. A similar tax reduction of EUR 1,200 per year (non-indexed amount) will apply for zero-energy dwellings (which is comparable to the tax reduction of EUR 600 (non-indexed amount) for "passiefwoningen" / "maisons passives").

Moreover, the tax reduction is transformed into a tax credit for energy-saving investments made in 2010, 2011 and 2012 relating to the change and maintenance of a boiler, the installation of double glazing, the isolation of roofs, walls and floors, and the installation of thermostatic valves and timers and energy audits.

A tax reduction will be granted for the purchase of electric cars. For the period 2010 to 2012, this reduction will amount to 30% of the purchase price, up to a maximum of EUR 6,500 (non-indexed amount). A tax reduction will also apply for the charging stations for such cars and these stations will be amortizable over two years and entitle the taxpayer to apply the increased investment deduction.

Deloitte's View

These green tax measures are part of the array of incentives aimed at promoting environmentally friendly behavior.

Pensions: sourcing rule introduced in domestic law

Belgium grants tax benefits (tax deductions or reductions) for pension contributions made by residents and some nonresidents to pension providers established in other EEA Member States (the EU, plus Iceland, Liechtenstein and Norway) and pension providers established in certain countries that have concluded a double tax treaty with Belgium that contains a specific clause.

In such cases, Belgium wants to tax the pension's benefits at pay out, even when the beneficiary is no (longer) Belgian tax resident. Some of Belgium's treaties already provide a sourcing rule that allocates taxing rights to Belgium when tax benefits were available in

Belgium during the build-up of the pension right entitlements. Due to the lack of a similar provision in Belgian domestic tax law, Belgium could not effectively make use of its jurisdiction to tax under the applicable treaties. Such a provision will now be included in Belgian rules relating to nonresident income taxation for individuals to allow the effective taxation of the pension benefits. The rule will apply as from 1 January 2009.

Deloitte's View

The introduction of the sourcing rule might affect retirement tax planning where an executive intended to take up residence in a foreign country that has concluded a tax treaty with Belgium that allocates taxing rights to the source country before retiring. It is advisable to carefully reassess the effectiveness of any tax planning in place in light of the new domestic sourcing rule.

Lunch vouchers, sports vouchers, culture vouchers and eco-vouchers

The tax treatment of which lunch vouchers, sports vouchers, culture vouchers and eco-vouchers will be codified so that such benefits are subject to the same tax treatment as social benefits. As a result, the benefits will be tax free for the beneficiary but are disallowed as a professional expense (i.e. non-deductible for tax purposes) at the level of the employer (with the exception of EUR 1 for lunch vouchers). This measure will apply as from income year 2009 (the deductibility of the EUR 1 for lunch vouchers as from 1 February 2009).

Deloitte's View

The legislator is providing more legal certainty of the tax treatment of these benefits by setting out the conditions for the beneficial tax treatment of the vouchers in a law, rather than in administrative guidelines.

Other measures

Other measures in the end-of-year laws and regulations include:

- Cancellation of the 40% increase for the determination of the taxable value of immovable equipment ("materieel en outillage" / "matériel et outillage"). As from income year 2009, the taxable value will be limited to the notional rental value of the immovable equipment;
- Extension of the tax deductibility for gifts made to charitable institutions that are established in an EEA Member State (as from 1 January 2009);
- Cancellation of the possibility to grant social benefits to a collaborating partner (conjoint aidant / meewerkende echtgenoot);
- Amendment of the specific tax regime for athletes and their coaches.

Contact

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