

Belgium | 17 May 2019



Laga Newsflash

Belgian Cayman Tax: non-EEA Royal Decree finally published

The long awaited Royal Decree amending that of 23 August 2015 regarding entities with legal personality outside the EEA (non-EEA entities) has been published in the Official Journal of 16 May 2019 ([Dutch](#) | [French](#)). As expected, the text of this new 'non-EEA Royal Decree' has been adjusted to better align with the text of the new 'EEA-Royal Decree' (see [previous newsflash coverage](#)).

The previous version of the non-EEA Decree contained a non-exhaustive list, with 66 non EEA-entities deemed to be legal arrangements. The presumption can be rebutted in a given year if the taxpayer proves an effective taxation of at least 15% of the deemed Belgian tax base.

The new non-EEA Royal Decree keeps the original list of 66 entities, but adds two new rebuttable presumptions (in line with the general wording in the EEA Royal Decree):

- Firstly, the Cayman Tax is presumed to apply to all non-EEA public, institutional and private collective investment companies (UCITS as well as AIF). The Cayman Tax will only apply if the UCITS/AIF are held by one person or by several related individuals.
- Secondly, the Cayman Tax is presumed to apply to all non-EEA hybrid companies. Those companies are tax transparent in the non-EEA jurisdiction where they are established, but not transparent according to Belgian tax law.

One should bear in mind that the decree only applies to legal entities with legal personality (*type 2* legal arrangements). Entities without legal personality, such as trusts, are a separate category of legal arrangements under Cayman Tax (*type 1*) and are always in scope of Cayman Tax (counterproof of 15% effective tax rate is not allowed), as are (insurance)

contracts linked to legal arrangements (*type 3* legal arrangements).

The amended Decree applies to income received, attributed or made payable by non-EEA legal entities as of 1 January 2019.

Greenille by Laga, Tel: + 32 2 738 06 50, E-mail: greenille@laga.be



Laga
Gateway building
Luchthaven Brussel Nationaal 1J
1930 Zaventem
Belgium

A top legal practice in Belgium, Laga is a full service business law firm, highly recommended by the most authoritative legal guides. Laga comprises approximately 140 qualified lawyers, based in Brussels (Zaventem and Watermael-Boitsfort), Antwerp, Ghent and Kortrijk. Laga offers expert advice in the fields of banking & finance, commercial, corporate/M&A, employment, IT/IP, public/administrative, insolvency and reorganisations, real estate, tax law, tax and legal services for high-net-worth families and individuals (Greenille by Laga), and litigation. Where appropriate to ensure a seamless and comprehensive high-quality service, Laga lawyers work closely with financial, assurance and advisory, tax and consulting specialists, and with select EU and US law firms.

Laga provides thorough and practical solutions tailored to the needs of clients ranging from multinational companies, national large and medium-sized enterprises, financial institutions, and private clients to government bodies.

More information: www.laga.be

© 2019, Laga, Belgium - The content and layout of this communication are the copyright of the law firm Laga or its contributors, and are protected under copyright and other relevant and intellectual property rights laws and regulations. No reproduction in any form or through any medium is allowed without the explicit consent of Laga or its contributors.

[Subscribe](#) | [Unsubscribe](#)