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## **Brexit Alert for Legal Counsel**

### Flemish Region adopts contingency decree with temporary 'no-deal' measures

#### Introduction

With a conclusive outcome to the Brexit process yet to materialise, this alert aims to provide guidance regarding the implications of a (currently likely) 'no-deal' Brexit for inheritance tax and gift taxes in the Flemish Region.

#### Key issues

In several aspects, the Flemish Tax Code provides more beneficial tax rules for persons, businesses and assets within the European Economic Area ("EEA"). Examples of these are:

- Gifts of family owned businesses, with a seat of effective management in the EEA, are exempt from gift tax under certain conditions, as opposed to the flat rate of gift tax (3% or 7%) for a business with a seat of effective management outside the EEA.
- A beneficial inheritance tax rate of 8.5% for bequests to charities within the EEA, as opposed to bequests to charities based outside the EEA, which are subject to the top rate of 55%.
- Deduction of specific debts is only allowed if they relate to immovable property (situated in the Flemish Region) that belonged to a deceased non-resident who lived within the EEA.

- An heir living outside the EEA is required to make an advance deposit for the inheritance taxes due upon the (Flemish region) resident's passing.

## Preparing for the 'no-deal' scenario

The Flemish tax code (Vlaamse Codex Fiscaliteit) provides the Flemish Region's rules regarding inheritance tax, gift tax and registration duties. On 13 March 2019, the Flemish Region's Parliament adopted a contingency decree to anticipate the regional tax consequences of a 'no-deal' Brexit with temporary measures.

The Flemish Brexit measures guarantee the continued application of the rules in the Flemish Tax Code, maintaining the pre-Brexit system. The key measure consists of a transition period which would run until 31 December 2020 if a 'no-deal' Brexit occurred, and during which the Flemish Region's inheritance tax, gift tax and registration duties rules would continue to apply. The measure is conditional upon reciprocity, meaning that if the UK does not approve similar legislation, the transition period will not apply.

## Laga can help

The Private Client practice (Greenille by Laga) is readily available to provide a Brexit impact assessment with respect to the use of beneficial tax rules for persons, businesses or assets, where there is a UK link.

## Contact

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